

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

2024:PHHC:134525-DB



(118)

LPA-2488-2024

Date of Decision: 15.10.2024

Gautam Singal

--Appellant

Versus

Union of India & others

--Respondents

**CORAM:- HON'BLE MR. JUSTICE G.S. SANDHAWALIA.
HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA.**

Present:- Appellant Mr. Gautam Singal in person.

Mr. S.P. Jain, Additional Solicitor General of India with
Ms. Saigeeta Srivastava, Advocate for UOI.

Ms. Arundhati Kulshrestha, AAG, Punjab.

G.S. SANDHAWALIA.J (Oral)

1. The present appeal is directed against the order dated 30.07.2024 passed by learned Single Judge in CRWP-5259-2023, whereby learned Single Judge came to the conclusion that the alleged detainee i.e. daughter of the present appellant was living in Canada and was an adult and the Court has no territorial jurisdiction to issue a writ against an adult person, who had gone abroad.

2. The history of the litigation inter se is that respondent no.13 i.e. wife of appellant got renewed the passports of the minor children without the consent of the appellant, allegedly by giving false information. It is not disputed that the minor son is stated to be living with the respondent no.13-wife and it has also been brought to our notice that proceedings are also pending before the Apex Court in SLP(Crl.) No.10687-2024 against the order dated 13.05.2024, passed by this Court in CR-7537-2023 preferred by

the appellant. We are informed that the said dispute arose out of quantification of the maintenance proceedings. Apparently, the Apex Court vide order dated 17.09.2024 referred the matter to the Supreme Court Mediation Centre. The said order reads as under:-

“In order to explore the possibility of an amicable settlement in the matter, the parties are directed to Supreme Court Mediation Centre. They are directed to appear before the said centre on 27.09.2024, either in person or through video conferencing facility at 11:30 a.m.

List the matter after receipt of mediation report.”

3. Keeping in view the above facts and circumstances, we are of the considered opinion that the present appeal is not maintainable in view of the law laid down by Apex Court in ***Ram Kishan Fauji Vs. State of Haryana and others, 2017 AIR Supreme Court 1535***, wherein it has been held that if the order is passed while exercising the powers under Article 226 of the Constitution of India while exercising criminal jurisdiction, the Letters Patent Appeal will not be maintainable before the Division Bench. The grievance of the appellant while filing a criminal writ petition was regarding registration of FIR and to order investigation against respondents no.6 to 12 being guilty of hatching a conspiracy to kidnap/abduct and remove the daughter of the appellant and for invoking various provisions of Indian Penal Code apart from issuing a writ of Habeas Corpus. Under such circumstances, when the matter was listed, learned Single Judge, who had been given the criminal roster exercised his jurisdiction.

4. Under such circumstances, we are of the considered opinion that the present appeal is not maintainable and we dismiss the same.

However, since the matter is already pending before the Mediation Centre

of Supreme Court, we are of the opinion that since this appeal has been filed by an aggrieved father to remain in touch with her daughter, it would be appropriate that the Mediator in the Apex Court would also look into this aspect as by virtue of the same, an effort can be made to resolve all the matters inter se the parties rather than relegating the parties to different Mediators before different forums.

5. With the above observations, we dismiss the present appeal.

(G.S. SANDHAWALIA)
JUDGE

15.10.2024
lucky

(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No