

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRWP-836-2025

Decided on 22.04.2025

Jaspreet Singh & Anr.

... Petitioners

VS.

State of Punjab & Ors.

... Respondents

CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Mr. Luvraj Dhingra, Advocate for
Mr. Siddharth Gupta, Advocate for the petitioners

Mr. JS Rattu, DAG Punjab

Sandeep Moudgil, J.

(1). The jurisdiction of this Court has been invoked under Article 226/227 of the Constitution of India read with Section 528 of BNSS, 2023 for issuance of directions to respondents No.1 to 3 to protect the life, liberty and property of the petitioners which is endangered at the hands of respondents No.5 to 7 and their relatives who are trying to forcibly kidnap the petitioner No.2 (minor son of petitioner No.1). Further a direction has been sought to respondents No.1 to 3 to get recovered the original documents viz. educational certificates/passport/ID proofs etc. of petitioner No.2 from the custody of respondents No.5 to 7 as well as a direction to respondents No.1 to 3 to ensure that respondents No.5 to 7 do not harass and visit the house or school of the petitioner No.2.

(2). Besides, the petitioners have also prayed for taking suitable action against respondent No.4 and other erring police officers who are pressurizing the petitioner No.1 to allow respondents No.5 to 7 to meet the petitioner No.2

daily from 9am to 5pm which is totally against the order dated 20.12.2024 passed in CRWP No.2090 of 2024 (Annexure P1).

(3). Learned counsel for the petitioners contends that the petitioner No.1 and respondent No.7-Jasleen Kaur married on 16.11.2012 and thereafter, petitioner No.2 was born out of their wedlock on 11.04.2014 but subsequently, respondent No.7 went to Canada leaving the minor child with the petitioner No.1 and grandparents who are taking care of petitioner No.2. He submits that in March, 2020, respondent No.7 took petitioner No.2 with her forcibly and against the wishes of the petitioner No.1 wherein she herself went to Canada and left petitioner No.2 in the custody of her parents. Keeping in view the mental condition and basic amenities of minor son –petitioner No.2, petitioner No. 1 had filed Habeas Corpus petition i.e. CRWP no. 2090 of 2024 with a prayer that the petitioner No.2 (detenue) be got released from the illegal confinement of respondent No. 5 and 6.

(4). It is further submitted that this Court allowed the custody of petitioner No.2 with petitioner No.1 i.e. the father and respondents No.5 & 6 were given the visitation rights after every fortnight for two hours at the place of petitioner No.1 with prior intimation. He contends that despite the direction of this Court, the respondents No.5 to 7 have forcibly entered the house of petitioners in connivance with the police and pressurized them to hand over the custody of petitioner No.2 as has been shown in CCTV footage (Annexure P2). It is averred that all the requisite birth and academic documents of petitioner No.2 are in possession of respondent No.7 and she has intention to take petitioner No.2 to Canada despite the fact that the custody of minor child has been ordered to be handed over to father i.e. petitioner No.1.

(5). When this matter came up for hearing on 03.02.2025, learned State counsel was directed to file status report by way of affidavit of SSP concerned, on the assertions made by counsel for the petitioner in the petition wherein it is categorically urged that mother of petitioner No.2 has come from Canada and tried to enter the house of the petitioner with heavy police force inclusive of Station House officer and also tried to take the custody of the minor child from petitioner No.1.

(6). Status report dated 03.02.2025 has been filed by Sartaj Singh Chahal, IPS, SSP, District Sangrur and the relevant para 3 is reproduced as under:-

“3. That in pursuance of the same, Superintendent of Police (Investigation) submitted his fact finding report before the deponent. Thus, the following points have come on record on the perusal of the record and the report by the deponent himself:

i. That on 06.01.2025 calls were received from the member panchayat/villagers from the mobile numbers 9878767251 at 02.55 PM, 03.03 PM, 9517163150 at 04.08 PM and from one of the relatives of the petitioner from mobile number 9815739048 at 08.16 PM, on the mobile phone number 8054545133 of the Incharge police post Badrukhan, district Sangrur and information was given that respondent namely Jasleen Kaur has entered petitioner's house and started threatening him/thern that she will take her child along with her being the mother due to which there can be fight/problem between the parties.

ii. That in regard to the abovesaid intimation, the police party reached the house of petitioner 06/07.01.2025 to verify the facts of the case situation on the spot (photos of which are attached with the main petition). Thus, the local police called both the parties at the police post, whereby the private respondents were instructed

and counseled that they should comply with the orders of the Hon'ble High Court and were further told that they cannot visit the house of the petitioner except in accordance with the conditions laid down by the Hon'ble Court of law.

iii. That further, Jasleen Kaur was instructed to not visit the premises of the petitioner Jaspreet Singh along with Satwinder Singh and Navdeep Kaur, as she was not granted any permission by the Hon'ble Court vide order dated 20.12.2024 and she was instructed to pursue the matter before the Hon'ble Court in regard to the visitation and custody of the child.

iv. That it is further submitted that the only reason that has come on record as to why the local police went on the spot was due to the calls from the member panchayat of the village and relative of the petitioner. Nothing has come on record that any police officer tried to force or help the private respondents to take the custody of the minor child or disobeyed the Order of this Hon'ble Court. Infact, it was only in the line of duty and regular procedure that the police went to the house of the petitioner on receiving the call(s) as already detailed above.”

(7). A perusal of the status report would demonstrate that the since calls were received from the villagers that respondent No.7 had forcibly entered the petitioners' house, therefore, the local police went on the spot and no police officer tried to force or help the private respondents to take the custody of the minor child or disobeyed the orders of this Court and it was only in the line of duty and regular procedure that the police went to the house of the petitioner on receiving the calls from the members of Panchayat and petitioners' relatives.

(8). Counter reply to the status report of respondents No.1 to 3, has been filed by the petitioners controverting the assertions made by the respondents No.1 to 3 wherein categoric assertions have been made against the

police officers by name who visited and pressurized the petitioners to hand over the custody of the child and in this regard, they have submitted a complaint alleging that ASI Mehar Singh threatened the petitioner No.1 to frame him in NDPS case.

(9). Respondents No.5 & 6 appearing in person countered the allegations made by the petitioners and submits that the respondent No.7 never forcibly threatened the petitioners and tried to take the custody of petitioner No.2 and due to the ruckus created by the petitioner No.1 for not allowing to meet petitioner No.2 as per the directions of this Court, respondents No.5 to 7 were left with no option but to take the police help.

(10). Having heard learned counsel for the parties, this Court is of the considered view that the matter regarding custody of the petitioner No.2 has already been settled by this Court vide order 20.12.2024 with the following directions:-

“63. In the light of above enunciated factual aspects, over all circumstances after testing the pleadings on the strenght of affidavits from both the interested parties, this Court has no hesitation to hold that the petitioner is a biological father and is much better placed than Jasleen Kaur (mother of minor son Harmanveer Singh) in all aspects, who deserves to have the custody with all expectations from him to brought up with a safe future for this child.

64. Hence, the custody of Harmanveer Singh is directed to be hand-over in the Court itself today to the petitioner, who has come present alongwith his maternal grandparents/respondents No.6 & 7.

65. The said direction stands duly complied with, as Harmanveer Singh has joined the petitioner and agreed to go alongwith him (father).

66. However, the respondents No.6 & 7 would be at liberty to visit Harmanveer Singh after every fortnight for two hours at the place of petitioner with prior intimation through mobile phone.

67. The present petition in the aforesaid terms stands allowed.”

(11). In the counter-reply filed to the status report, categorical assertions have been made against the police officers who visited the house of the petitioners and threatened to hand over the custody of minor son – petitioner No.2. A complaint has also been made by the petitioner No.1 against the conduct and connivance of the police officials with respondent No.7.

(12). Since the respondent No.5 to 7 flawed the directions of this Court with regard to the liberty granted to them to visit petitioner No.2- Harmanveer Singh after every fortnight for two hours at the place of petitioner with prior intimation through mobile phone, this Court is constrained to recall its order dated 20.12.2024 only to the extent that there shall be no liberty to respondents No.5 to 7 to visit and meet petitioner No.2 as specified in para 66 of the order dated 20.12.2024. To say it otherwise, it shall not be imperative upon the petitioner No.1 or his family members to allow respondents No.5 to 7 or their relatives to visit the house of the petitioners and meet petitioner No.2 for which they may avail their legal remedies in accordance with law.

(13). It is also noticeable that the documents/certificates have also been handed over to the petitioner No.1 in Court. As regards the conduct of the police officials for threatening the petitioners and family members, the petitioner No.1 shall be liberty to take legal recourse against the concerned

police officials/officer before the Senior Superintendent of Police, Sangrur which shall be investigated and decided within two weeks from the date of its submission and the errant police official shall be taken to task for disobeying/non-compliance of the order of this Court dated 20.12.2024. Compliance report be submitted within one month.

(14). In view of the above observation and directions, this petition is allowed in above terms.

22.04.2025

V.Vishal

- 1. Whether speaking/reasoned?
- 2. Whether reportable?

(Sandeep Moudgil)
Judge

Yes/No
Yes/No