
(2019) 12 P&H CK 0118

In the Punjab And Haryana At Chandigarh

Case No : Criminal Writ Petition No. 1991 Of 2019 (O&M)

Jamsheeda

APPELLANT

Vs

State Of Haryana And Others

RESPONDENT

Date of Decision : 16-12-2019

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 164

Indian Penal Code, 1860 — Section 365

Protection Of Children from Sexual Offences (POCSO) Act, 2012 — Section 4, 6

Constitution Of India, 1950 — Article 226, 227

Citation : (2019) 12 P&H CK 0118

Hon'ble Judges : Jasgurpreet Singh Puri, J

Bench : Single Bench

Advocate : Saleem Ahmed, Harpreet Kaur

Final Decision : Disposed Of

Judgement

Jasgurpreet Singh Puri, J

The present habeas corpus petition has been filed under Article 226/227 of the Constitution of India by one Jamsheeda wife of Akbar, resident of Village Malhaka, Police Station, Punhana, District Nuh, by stating that her minor daughter Asleema, aged about 15½ years, while she was sleeping in her house, was kidnapped by some persons.

Notice was issued to the State in this case to apprise the Court with regard to the same and to assist the Court.

On 12.12.2019, the matter was taken up as the girl was produced in the Court by the police along with one lady Constable. At that time, during the course of proceedings, it was pointed out that she had already made statement under Section 164 Cr.P.C. before the learned Magistrate wherein she had stated that, in fact, she has gone herself out of the house because her parents were maltreating her and she has also levelled various allegations against her parents.

Since the parents of the girl were present in the Court on said date, the learned counsel for the petitioner had stated that her statement before the Magistrate was under pressure and that she was actually kidnapped. Thereafter, in the Court itself, the girl came out with another version by saying that her statement before the Magistrate was not voluntary. As such, it was directed by this Court that the girl be produced before the learned Magistrate on the next day so that she can record her statement voluntarily and police protection along with two women police officers was also granted. The parents of the girl were also permitted to be present with the girl.

Learned counsel for the petitioner, on instructions, also levelled serious allegations against the police officials in this regard.

Today, learned Assistant Advocate General, Haryana, has pointed out that now the girl has again got her statement under Section 164 Cr.P.C. recorded before the learned Magistrate on 13.12.2019, wherein she has stated that she has been actually kidnapped by 7-8 persons and also that her earlier statement under Section 164 Cr.P.C. made before the learned Magistrate was not voluntary.

The learned State counsel, on instructions from SI Jitender from Police Station, Punhana, states that the FIR No.453 dated 28.11.2019, under Section 365 IPC and Sections 4 and 6 of the Protection of Children from Sexual Offences Act, Police Station Punhana, has already been registered against 10 persons and that accused persons are still at large and they have not been apprehended as of now.

The learned counsel for the petitioner states that since the girl, at present, is in the custody of her parents, they are satisfied with the safety of the girl so far as custody of the girl is concerned, however, he further points out that since it was a case of kidnapping and the accused persons are 10 in number, there is serious apprehension to the life and personal liberty of the girl and her parents.

In view of the seriousness of the case, it is expected that the police would investigate the case with much more devotion and seriousness.

At this stage, learned State counsel has pointed out that investigation is being conducted by senior officers and the Additional Director General of Police, Rewari, is also monitoring the investigation of the case.

To this, the learned counsel for the petitioner, states that so far as the allegation against the police officers is concerned, he is satisfied that since the matter is being monitored at the level of Additional Director General of Police, Rewari, he would not press, at this stage, regarding the implication of the police officers in this case.

In view of above, the present petition is disposed of with a specific direction to the State of Haryana, to grant police protection to the minor girl namely Asleema as well as her parents by deployment of at least two lady police personnel till the time the police is satisfied that there is no threat perception to them and for that purpose the police would record its reasons for the satisfaction in their case file.