

(2023) 07 RAJ CK 0049

In the Rajasthan High Court

Case No : Habeas Corpus Petition No. 208 Of 2023

Kanchan Devi

APPELLANT

Vs

State Of Rajasthan And Others

RESPONDENT

Date of Decision : 17-07-2023

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 97

Citation : (2023) 07 RAJ CK 0049

Hon'ble Judges : Arun Bhansali, J;Rajendra Prakash Soni, J

Bench : Division Bench

Advocate : Kant Verma, M.A. Siddiqui, A.R. Malkani, Bhawani Dan, Naya Shahar

Final Decision : Dismissed

Judgement

1. This petition in the nature of Habeas Corpus has been filed by the petitioner, inter-alia, alleging that her son Laxman aged about 6 years is in illegal custody of respondent Nos.4 to 7 i.e. grandfather, uncle, etc. of the corpus.
2. Submissions have been made that the petitioner is married to Nirmal and out of their wedlock two children, Pankaj - 9 years and Laxman - 6 years, were born. It is further stated that they decided to part ways and agreed that Laxman would remain with the petitioner, whereafter she started living in live-in-relationship with one Manoj Dan.
3. The respondents initiated proceedings under Section 97 of Cr.P.C. and when the child was produced in the police station, he was snatched away by the respondents and has been handed over to the father and as the child is in illegal custody of the respondents, they be directed to handover the possession of the corpus to the petitioner.
4. By order dated 28.06.2023, copy of the petition was ordered to be served on learned AAG, who produced factual report on 11.07.2023, when directions were given to produce the corpus before the Court. Pursuant to the said order, the corpus - minor child has been produced before the Court along with the factual

report and the case diary.

5. We have talked to the minor child in camera wherein, he has made serious allegations against the petitioner and her live-in partner Manoj Dan regarding giving beatings to him and subjecting him to cruelty and that he wanted to live with his father and other family members (grand parents) only.

6. As the child was produced from the custody of the father, the Court in order to ascertain that the child was not tutored, made attempts to find out the truth from the child, however, the child kept on repeating the same thing regarding the misbehavior meted out to him and that he wanted to live with the father and his family only. The child was frightened of the mother and in fact did not want to leave the dais of the Court, where he was being talked to by the Court alone, in fear that the mother would take him away.

7. In view of the above fact situation, it cannot be said that the minor child Laxman, who is in the custody of his father is in any manner illegal detention of the respondents.

7. Accordingly, the present petition stands dismissed.