

(2020) 01 P&H CK 0020

In the Punjab And Haryana At Chandigarh

Case No : Criminal Writ Petition No. 1573 Of 2019

Malkeet Singh

APPELLANT

Vs

State Of Punjab And Ors

RESPONDENT

Date of Decision : 09-01-2020

Acts Referred:

Indian Penal Code, 1860 — Section 346
Code Of Criminal Procedure, 1973 — Section 164

Citation : (2020) 01 P&H CK 0020

Hon'ble Judges : Jasgurpreet Singh Puri, J

Bench : Single Bench

Advocate : Randeep Singh Waraich, M.S. Nagra, Arshdeep Singh Sivia

Final Decision : Disposed Of

Judgement

Jasgurpreet Singh Puri, J

The present petition has been filed for issuance of writ in the nature of Habeas Corpus with regard to the alleged detainee-Sukhvir Kaur, who is stated to be wife of the petitioner-Malkeet Singh is missing from the house and therefore appropriate directions has been sought from the Court.

On 04.12.2019 this Court had issued notice of motion and had also sought for the status report from the State of Punjab. In pursuance thereof an affidavit was filed by one Jashandeep Singh Gill, PPS, ACP (South), Ludhiana on behalf of respondent Nos. 1 to 3. In the said affidavit it has been stated by the ACP (South), Ludhiana that earlier also a dispute had arisen between the petitioner and his wife and on the basis of the statement of the petitioner an FIR No.110 dated 02.08.2019 was lodged under Section 346 IPC at Police Station Sadar, Ludhiana and thereafter the wife of the petitioner who is the alleged detainee was recovered from village Lalgah Jatana, District Ganga Nagar, Rajasthan on 31.08.2019. The Investigating Officer then produced the case of alleged detainee-Sukhvir Kaur before the learned Judicial Magistrate Ist Class /Duty Magistrate,

Ludhiana on 01.09.2019 during which her statement under Section 164 of the Code of Criminal Procedure was recorded in which she had stated that her husband use to quarrel with her and she did not want to live with her husband i.e., the petitioner and she wanted to live with her friend namely, Bharat Prince of Ganga Nagar who is respondent No.4 in the present case. She further stated that she had left the house of her husband voluntarily and went to Ganganagar where the said Bharat Prince is residing. She further stated that she did not want to go with her family and wanted to go to Nari Niketan. After that the learned Judicial Magistrate Ist class had passed the orders to send Sukhvir Kaur to Nari Niketan, Jalandhar. Thereafter on statement of Sukhvir Kaur in FIR No.110 dated 02.08.2019 lodged under Section 346 IPC registered at Police Station Sadar, Ludhiana was cancelled by the police, after this the parents of Sukhvir Kaur presented an application before the Illaqa Magistrate to hand over the custody of their daughter. On their request the custody of Sukhvir Kaur had been given to her parents on 07.09.2019 by the Judicial Magistrate Ist Class, Ludhiana.

Again it is further stated in the affidavit that the petitioner had again submitted an application on 08.11.2019 to Police Station Sadar, Ludhiana which was received by the Investigating Officer on 05.12.2019 by stating that the petitioner had gone to Amritsar and when he returned home 03.11.2019, his wife was found missing from the house and stated that he had an apprehension that her wife had been kidnapped by respondent No.4 i.e., Bharat Prince and respondent No.5 i.e., Vinod Kumar. Thereafter, the petitioner was summoned by the ASI Gurbakshish Singh and petitioner gave a statement on 05.12.2019 that he along with his wife Sukhvir Kaur and son Jaskaran Singh went to Harmandir Sahib Amritsar, by train and when he woke up at about 5:00 am on 3.11.2019 he found that this wife Sukhvir Kaur was not present in the room of Sran. He immediately informed the police of Amritsar and he further states that the Police of Ludhiana had no jurisdiction because the last happening allegedly had taken place at Amritsar.

From the perusal of the affidavit it could be seen that there was an old matrimonial dispute going on between the petitioner and his wife-Sukhvir Kaur who is alleged detainee in the present case. The allegation in the petition is that she has been taken away by the respondents Nos. 4 and 5 and she is under pressure and that is why she is not coming back to her matrimonial home and therefore the petitioner has filed present petition praying that an appropriate direction be issued in this regard. On the last date of hearing this Court after considering all the facts and circumstances had issued notice to respondent Nos. 4 and 5 namely Bharat Prince and Vinod Kumar so that factual position can be ascertained in a proper manner. Today Mr. Arshdeep Singh Sivia, Advocate has put in appearance on behalf of respondent Nos. 4 and 5 and submits his vakalatnama in Court today. The same is taken on record. He submits that the alleged detainee-Sukhvir Kaur is residing with respondent No.4 at Ganga Nagar, Rajasthan with her own sweet will and voluntarily. He further on instructions submits that both the respondent Nos. 4 and 5 have not created any pressure on

the alleged detainee-Sukhvir Kaur and she is residing with them because she has been mal-treated by her husband as well as her parents. The alleged detainee namely Sukhvir Kaur, her parents and husband are present in the Court. An effort has been made by this Court to ask from the alleged detainee-Sukhvir Kaur with regard to her voluntariness in staying with respondent No.4 at Ganga Nagar, Rajasthan and it has been stated by her in Court that she is residing there voluntarily and there is no pressure created upon her and that she does not want to live with her parents or with her husband due to the circumstances which has been stated in the Court that they are not treating her well. On asking from her she has stated she wants to live with respondent No.4 voluntarily as there can be other serious consequences in case she comes back and live with her husband or parents and therefore had requested the Court that she may be permitted to live at a place of her own choice as she is major of the age of 29 years.

Considering the totality of the circumstances and the past history by which she was earlier handed over to her parents at one point of time and she was also handed over to Nari Niketan at another point of time now she has voluntarily decided that she wants to live separately from her husband and her own parents, this Court cannot compel the alleged detainee-Sukhvir Kaur who is a major and who has stated specifically in the Court that she does not want to live with her husband and parents.

In view of the above no further proceedings are called for in the present case.

Present writ petition is disposed of accordingly.