
(2011) 03 P&H CK 0282
In the Punjab And Haryana At Chandigarh
Case No : CRWP No. 1173 of 2010

Mangal Singh

APPELLANT

Vs

State of Punjab and Others

RESPONDENT

Date of Decision : 11-03-2011

Acts Referred:

Constitution of India, 1950 — Article 226
Criminal Procedure Code, 1973 (CrPC) — Section 482

Citation : (2011) 03 P&H CK 0282

Hon'ble Judges : Jora Singh, J

Bench : Single Bench

Judgement

Jora Singh, J.—Mangal Singh, preferred this writ petition under Article 226 of the Constitution of India, read with Section 482 Code of Criminal Procedure, with a prayer to direct Respondent No. 2, to produce Raj Kaur, along with minor daughter Amandeep Kaur and to give back the custody of the detinue to the Petitioner.

2. That the detenuess are in the illegal custody of Respondent No. 4. Marriage of the Petitioner with Raj Kaur, was solemnized about 15 years back and out of this wedlock there are two sons, one is aged about 10 years, second is 7 years old and one daughter namely Amandeep Kaur, aged about 3 years. On 14.3.2010, Respondent No. 4 had kidnapped Raj Kaur along with minor daughter namely Amandeep Kaur. Matter was reported to the police but no action.

3. Second allegation of the Petitioner is that he is owning land measuring 24 kanals situated in village Nizamwala, Tehsil and District Ferozepur. Respondent No 4 has forged and fabricated an agreement to sell (Annexure P-4).

4. In pursuance of the notice, Respondents No. 1 and 2 filed reply and the same is to the effect that Raj Kaur, was turned out of the matrimonial house along with minor daughter Amandeep Kaur. At present Raj Kaur and Amandeep Kaur, are residing in the house of Respondent No. 4 as servant. Raj Kaur, gave an affidavit to the effect that she was turned out of the matrimonial house along with minor

daughter and after that she is residing with Respondent No. 4 as servant. Regarding agreement to sell, civil suit was instituted by Respondent No. 4 and the same is pending in Civil Courts at Ferozepur.

5. Respondent No. 3 filed separate reply by controverting the allegations on the same lines as per reply of Respondents No. 1 and 2.

6. Respondent No. 4 also filed separate reply on the allegation that matrimonial dispute amongst the Petitioner and his wife. Petitioner used to maltreat Raj Kaur. Raj Kaur and her daughter Amandeep Kaur, filed CRM No. M 8191 of 2010, against the Petitioner and the same was disposed of vide order dated 18.3.2010, with a direction to Respondent No. 2 to take an appropriate action on the petition of Raj Kaur. Petitioner had executed an agreement to sell land measuring 24 kanals 12 marlas situated in the area of village Nizamwala, Tehsil and District Ferozepur, but sale deed was not executed as per agreement to sell. Civil Suit for specific performance of agreement to sell was instituted and the same is pending.

7. Learned Counsel for the Petitioner argued that Raj Kaur, is the legally wedded wife of the Petitioner. File was sent to the Mediation and Conciliation Center. Parties effected compromise. Raj Kaur, also gave an affidavit. Argued that in view of the compromise and affidavit of Raj Kaur, Petitioner is to take appropriate remedy as per law and the instant petition be disposed of accordingly.

8. Learned State counsel and learned Counsel for Respondent No. 4 stated that parties have effected compromise. Compromise was signed by the detenue namely Raj Kaur and the present Petitioner. According to the compromise, Raj Kaur, is staying with her parents. Affidavit of Raj Kaur, is to the effect that she is the legally wedded wife of Mangal Singh but she was turned out of the matrimonial house along with her minor daughter. She was not kidnapped by Balraj Singh- Respondent No. 4.

9. File shows that parties have effected compromise before the Mediator. Compromise was signed by the present Petitioner and Raj Kaur. According to Raj Kaur, she wanted to stay with her parents. Affidavit of Raj Kaur, is also to the effect that she along with her minor daughter namely, Amandeep Kaur, was turned out of the matrimonial house by Mangal Singh. She was not kidnapped by Balraj Singh- Respondent No. 4 or her parents. According to the affidavit, she is staying with Balraj Singh but as per compromise before the Mediator, she was to stay with her parents. Vide order dated 28.2.2011, learned State counsel was directed to produce Raj Kaur, in Court but today she was not produced in Court.

10. Learned Counsel for the Petitioner states that as per compromise Petitioner is take appropriate remedy as per law.

11. As discussed earlier, Petitioner is the husband. As per affidavit of Raj Kaur, is major and was staying with Balraj Singh-Respondent No. 4 as servant. Matrimonial dispute amongst the Petitioner and his wife. Efficacious remedy available with the Petitioner is to file petition for restitution of conjugal rights or

divorce. As per compromise and affidavit of Raj Kaur, she was not kidnapped by Respondent No. 4 or her parents. Qua agreement to sell, civil suit is pending. Court is yet to decide whether agreement to sell alleged to be executed by the Petitioner is valid one or not and suit for specific performance of the agreement is to be decreed or not.

12. Once the custody of Raj Kaur, with Respondent No. 4 is not illegal, so the present petition is disposed of with liberty to the Petitioner to take appropriate remedy as per law.

13. Ordered accordingly.