

ORDER SHEET

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Const. Petition No.S-09 of 2024

Petitioner : Allah Wasayo Metlo, through
Mr. Muhammad Hanif Kalhoro, Advocate

Respondent
No.6,7 & 9 : Jahan Khan, Ghulam Hussain, Haji Hassan
Through Mr. Achar Khan Gabol, Advocate

Respondent
No.1 to 5 : Province of Sindh and others, through
Mr. Ghulam Mustafa Abro, Assistant
Advocate General Sindh

Date of hearing : 01.03.2024

Date of Decision : 01.03.2024

O R D E R

ARBAB ALI HAKRO, J.- Through this petition under Article 199 of the Constitution of the Islamic Republic of Pakistan 1973 read with Section 491 Cr.P.C, the petitioner seeks recovery of his daughter (**hereinafter to be called as the alleged detenu**e), namely Reema, from the illegal and improper confinement of respondents No.6 to 11.

2. The case facts are that the petitioner filed Habeas Corpus Application No.08/2024 under Section 491 Cr.P.C before the Sessions Judge Naushahro Feroz against respondents No.06 to 11. It was alleged by the petitioner that on 30-11-2023 at about 08:00 p.m., he, along with his wife, Mst.Ramzan and daughters Waseema, aged about 14 years, and Reema, aged about 12 years, were available in the house; meanwhile, respondents Jahan Khan, duly armed with Kalashnikov, Ghulam Hussain, Illahi Bux, Haji Hassan, Asif and Murad Khan, armed with pistols, trespassed into the house, issued threats of murder and kidnapped his

daughters Waseema and Reema. Rule nisi was issued by the Addl. Sessions Judge Kandiaro for the production of the alleged detainees upon which one daughter, Waseema, was produced, who stated that she is aged about 19 years and had contracted marriage with respondent No.6 Jahan Khan with her own free will and produced such nikahnama. She also stated that she had not been abducted by anybody and showed her desire to accompany her husband/respondent No.6. So far, the second daughter, Reema, is concerned, the Police conducted raids at the houses of private respondents but could not find her, hence the Addl. Sessions Judge Kandiaro dismissed the petitioner's application vide order dated 05-01-2024. In the above background, the petitioner approached this Court and prayed that his daughter Reema might be recovered from the illegal custody of private respondents; after recording her statement, she may be set at liberty, and an FIR be registered against the private respondents.

3. Respondent No.4 SDPO Kandiaro submitted his report stating therein that he made an inquiry and went to the given address to recover the alleged detainee Reema. However, he received no information from anyone on this behalf. He recorded the statement Mst. Waseema stated that she has no sister named Reema. He also obtained the petitioner's family tree from NADRA, of which his daughter Reema is not registered.

4. Learned counsel for the petitioner has contended that the petitioner had lodged an FIR bearing Crime No.130/2023 U/S 365-A, 365-B PPC against the private respondents at Police Station Kandiaro regarding the abduction which caused the private respondents to get annoyed. He has further contended that on 30-11-2023, the private respondents duly armed with deadly weapons trespassed into the house of the petitioner and abducted away his daughters, Waseema and Reema. He also contended that the learned Additional Sessions Judge, Kandiaro, dismissed the petitioner's application without recovering his second daughter, Reema. Therefore, the petitioner has filed the present petition, as he has no alternate remedy except to approach this Court.

5. On the other hand, learned counsel for the private respondents, while arguing, denied the alleged detainee's illegal

confinement and submitted that the petitioner had levelled false allegation due to old enmity. He has further submitted that the daughter of the petitioner, namely Mst. Waseema, while recording her cursory statement before the Addl. Sessions Judge Kandiaro in Cr. M.A No.08/2024 categorically stated that nobody had abducted her, and she had contracted marriage with Jahan Khan(respondent No.6) of her own free will and consent.

6. Learned APG states that the petitioner has not produced any B-Form or school certificate for his daughter Reema, and no such detinue was found during the raid at the respondents' house. Thus, the petitioner's allegations remain uncorroborated.

7. I have heard the learned counsel for the parties and examined the material on record. The record reveals that the petitioner had filed an application under Section 491 Cr.P.C before the Addl. Sessions Judge Kandiaro, seeking the recovery of his two daughters, Waseema and Reema, alleging that the private respondents had abducted his daughters and were being held in illegal and wrongful confinement. In response, the Addl. Sessions Judge Kandiaro issued a rule nisi for the production of the alleged abductees. Waseema, one of the daughters, appeared before the Addl Sessions Judge and stated that she had not been abducted by anyone. Instead, she had contracted marriage with respondent No.6 Jahan Khan with her own free will and consent. Consequently, the Addl. Sessions Judge Kandiaro dismissed the petitioner's application. The petitioner approached this Court to seek the recovery of his second daughter, Reema. This Court directed the concerned Police to recover the alleged detinue and produce her before this Court. After conducting an inquiry and visiting the houses of private respondents, the SDPO Kandiaro submitted his report that the alleged detinue was not found at the given address. Learned counsel for the private respondents argued that the petitioner has given a fake name and he has only four daughters, three of whom were already married, and Waseema is the fourth and that petitioner has also not produced birth certificate or school record for his daughter Reema except a photograph. The record further shows that there is old enmity between the parties,

and criminal litigations are pending between the petitioner and respondents. It has come on record that prior to this, petitioner had lodged an FIR No.130/2023 U/S 365-A, 365-B PPC against the private respondents regarding the abduction of his sister and niece. In the instant petition, the petitioner has once again raised severe allegations, this time concerning the abduction/kidnapping of his daughter. Although the alleged detainee was not recovered during the Police raid, such controversy cannot be resolved without proper inquiry and record examination. Accordingly, the District & Sessions Judge, Naushahro Feroz, is directed to conduct an enquiry into the matter and submit a compliance report to this Court within a period of 01(one) month through Additional Registrar of this court for perusal in chamber.

The petition stands disposed of in the above terms.

JUDGE

Suleman Khan/PA