

(2012) 09 P&H CK 0358

High Court Of Punjab And Haryana At Chandigarh**Case No:** Criminal Miscellaneous No. M-26617 of 2012

Yash Pal

APPELLANT

Vs

The State of Haryana and Others

RESPONDENT

Date of Decision: Sept. 3, 2012**Acts Referred:**

- Criminal Procedure Code, 1973 (CrPC) - Section 482

Hon'ble Judges: Mehinder Singh Sullar, J**Bench:** Single Bench**Advocate:** S.S. Chauhan, for the Appellant;**Final Decision:** Allowed

Judgement

Mehinder Singh Sullar, J.

The crux of the facts and material which needs necessary mention for a limited purpose of deciding the core controversy, involved in the instant petition and emanating from the record is that Nisha D/o Ratti Ram (detenue) has solemnized her love marriage with the petitioner-Yash Pal S/o Raghbir on 10.08.2012 against the wishes of her parents, according to Hindu Rights and ceremonies. On 12.08.2012, she was produced before the Executive Magistrate, Ferozepur Jhirka, where she made her statement (Ex. P-2). Instead of directing the release of the detenue, the Executive Magistrate ordered to send her to Nari Niketan, vide impugned order dated 17.08.2012 (Annexure P-3).

2. Petitioner-Yash Pal husband of the detenue did not feel satisfied and preferred the instant petition to quash the impugned order dated 17.08.2012 (Annexure P-3), invoking the provisions of Section 482 Cr. PC.

3. In pursuance of the order dated 30.08.2012 of this Court, respondent No. 5 has produced her in the court. Detenue Nisha made the following statement:

I am major. I have voluntarily performed my marriage with petitioner Yash Pal son of Raghbir, without any kind of pressure or coercion. I am happily residing with my husband in my matrimonial home. I want to go with my husband (petitioner).

4. Not only that birth certificate (Annexure P-1) would go to show that the date of birth of the detenu Nisha is 20.09.1992. According to her statement Annexure P-2 made before the Executive Magistrate and statement made in this Court, she is major; she voluntarily performed her marriage with the petitioner; she intends to go with her husband Yash Pal-petitioner. She had specifically stated in her statement (Annexure P-2) that she did not want to go with her parents.

5. Meaning thereby, it stands proved on the record that petitioner and the detenu were major at the time of marriage. She voluntarily performed her love marriage with the petitioner against the wishes of her parents. She wants to live with the petitioner in her matrimonial home. Therefore, to my mind, the Executive Magistrate had slipped into a deep legal error to detain her (detenu) in the Nari Niketan, vide impugned order dated 17.08.2012 (Annexure P-3). As the liberty of the detenu is involved, therefore, the impugned order cannot legally be sustained in the obtaining circumstances of the case.

6. In the light of the aforesaid reasons, the present petition is accepted. The impugned order dated 17.08.2012 (Annexure P-3) is set aside. The detenu is permitted to accompany her husband Yash Pal- petitioner in the manner, she likes. Ordered accordingly.