



CRWP-8089-2023 (O&M)

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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRWP-8089-2023 (O&M)

Pallavi Chakravarty and another

....Petitioners

versus

State of Haryana and others

....Respondents

Date of reserve: 04.12.2025

Pronouncement on: 17.12.2025

Date of uploading: 17.12.2025

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present:- Ms. Neha Jain, Advocate for the petitioners.

Mr. Tarun Aggarwal, Additional Advocate General, Haryana.

Mr. Manu K. Bhandari, Advocate and

Mr. Arjun Sawhni, Advocate for respondent No.5.

SUMEET GOEL, J.

The *petition in hand* filed under Article 226 of the Constitution of India, in essence, seeking directions to the official respondents to protect the life and liberty of the petitioners and to restrain respondent No.5 (father of petitioner No.2) from exercising visitation rights granted vide judgment and decree dated 04.12.2018 passed by the learned Civil Judge, Pune, on the grounds of threat, harassment and apprehension of kidnapping.

2. Shorn of non-essential details, the relevant factual matrix of the *lis in hand* is adumbrated, thus:

(i) The petitioner No.1 - mother is a divorcee and a single parent, presently having the lawful custody and care of petitioner No.2 (hereinafter referred to as the '*minor child*'). The marriage between petitioner No.1 and



respondent No.5 - father was solemnized on 08.07.2010 and out of the wedlock, petitioner No.2 was born on 01.12.2011. Owing to matrimonial discord, the parties obtained a decree of divorce by mutual consent under Section 13-B of the Hindu Marriage Act, 1955, vide judgment and decree dated 04.12.2018 passed by the learned Civil Judge, Pune. As per the terms of settlement, permanent custody of the minor child was granted to the mother, i.e. petitioner No.1 (herein) while respondent No.5 – father (herein) was accorded visitation rights subject to stipulated conditions.

(ii) Pursuant to the decree, the parties initially complied with the aforesaid arrangement. Petitioner No.1 (herein), who is employed with Indian Bank, was transferred in May 2023 to Chandigarh and duly informed respondent No.5 (herein) of her residential address and the school particulars of the minor child. In June 2023, respondent No.5 also shifted to Panchkula and informed petitioner No.1 of his residential address for the purposes of visitation.

(iii) Petitioner No.1 alleged that during visitation in July 2023, the conduct of respondent No.5 towards the minor child (petitioner No.2 herein) was improper and in violation of the settlement terms. Upon return from visitation on 03.07.2023, the minor child allegedly exhibited signs of fear and distress and disclosed that he had been kept at a place other than the disclosed residence and was subjected to harassment, neglect and threats. It is alleged that such conduct caused severe mental trauma to the minor child rendering him reluctant to meet respondent No.5 thereafter.



(iv) The grievance of the petitioners is that respondent No.5 continued to harass petitioner No.1 at her residence and workplace and despite objection raised by the petitioners, forcibly attempted to exercise visitation rights. On 05.08.2023, petitioner No.1 submitted a complaint to SHO, Police Station, Sector 5, Panchkula (respondent No.4 herein) seeking protection; however, no effective action had been taken.

(v) On 09.08.2023, during an alleged attempt by respondent No.5 – father to meet the minor child, an altercation took place at a public bus stop in Panchkula, wherein it is alleged that respondent No.5 manhandled the mother of petitioner No.1, a senior citizen, and attempted to forcibly take the custody of the child. Consequent thereto, petitioner No.1 submitted another complaint dated 10.08.2023 to respondent No.3 seeking protection and restraining respondent No.5 from forcibly meeting the child.

(vi) It is further alleged that despite repeated complaints, no preventive or protective measures were taken by the official respondents. The petitioners assert that the minor child has since remained under severe fear and anxiety and has stopped attending the school. He is also apprehensive of being forcibly removed from the lawful custody of petitioner No.1.

It is in the aforesaid factual *milieu* of the case in hand, the petitioners have approached this Court by way of the present criminal writ petition.

3. Learned counsel appearing for the petitioners has argued that the present writ petition has been necessitated on account of complete failure



of the official respondents to protect the life and personal liberty of the petitioners despite repeated complaints and clear disclosure of imminent threat at the hands of respondent No.5. Learned counsel has iterated that respondent No.5, under the guise of visitation rights, has grossly misused the said liberty by harassing, threatening and subjecting the minor child to physical and mental trauma thereby acting in violation of the terms of the settlement and the welfare of the child. Learned counsel has further iterated that the petitioner No.1 is the lawful custodian of the minor child (petitioner No.2) and the visitation rights do not confer any authority upon respondent No.5 to forcibly take or retain the minor child. Learned counsel has further submitted that the acts of respondent No.5 in threatening the minor child and attempting to forcibly snatch the child at a public place constitute criminal conduct and disclose cognizable offence warranting immediate intervention. According to learned counsel, despite complaints dated 05.08.2023 and 10.08.2023 having been duly submitted to the competent police authorities, no effective action has been taken so far which amounts to dereliction of statutory duty and infringement of the fundamental right of the petitioners under Article 21 of the Constitution of India. It is urged that the minor child has suffered severe psychological trauma on account of the conduct of respondent No.5 and is presently not attending the school out of fear of abduction. Learned counsel has asserted that the welfare, safety and well-being of the child are of paramount consideration and must override any claimed visitation rights particularly when the child himself is unwilling to



meet respondent No.5 due to past ill-treatment. On the strength of these submissions, grant of *petition in hand*, is entreated for.

4. A status report by way of an affidavit dated 22.02.2024 of Surender Singh, HPS, Assistant Commissioner of Police, Panchkula on behalf of respondent has been filed. Learned State counsel has raised submissions in tandem with the said status report, relevant whereof reads thus:

"3. That the enquiry was set into motion. During enquiry both the parties were joined and during enquiry it was revealed that the petitioner no.1 and respondent no.5 were husband and wife who were divorced in 2018. From this marriage, a boy named Ratul was born, regarding whose custody order was passed by the Learned Court of Pune that the child will stay with his mother for some days in the month and with his father for some days. As per the order of Learned Court, the child Ratul lived with his parents at different times. That on 09.08.2023, as per the order of Learned Court, he child was to go to his father after the holiday but the child's maternal grandmother reached to take the child, which leads to tussle between two parties. During enquiry, no facts came to light regarding the respondent no.5 harassing the child and stalking the petitioner no.1. That the enquiry of the complaint is related to court orders and both the parties are instructed to present their case before Learned Court and after the enquiry no cognizable offence is made out."

5. Learned counsel appearing on behalf of respondent No.5 – father has vehemently opposed the *petition in hand* by arguing that the present petition is misconceived and an abuse of the extraordinary writ jurisdiction of this Court. Learned counsel has iterated that the petitioners have deliberately attempted to give a criminal colour to a purely matrimonial and custody related dispute for which efficacious and alternative remedies are available before the competent Family Court. Learned counsel has



further iterated that the respondent No.5 is the biological father of petitioner No.2 and has been lawfully granted visitation rights vide judgment and decree dated 04.12.2018, which remain subsisting and binding. Learned counsel has further argued that the petitioner No.1 cannot unilaterally frustrate or curtail the visitation rights of respondent No.5 on mere allegations particularly without any order of modification or suspension by the competent Court. Learned counsel has further contended that the averments made in the writ petition are exaggerated and unsupported by any medical record or independent witness. Learned counsel has emphasized that the lodging of repeated complaints by petitioner No.1 -mother is a calculated attempt to alienate the child from his father and to pressurize respondent No.5 by misusing the machinery of law. According to learned counsel, respondent No.5 – father has never posed any threat to the life or liberty of the petitioners and no cognizable offence is made out from the complaints. Furthermore, mere apprehension, without credible material, cannot be the basis for restraining a parent from exercising lawful visitation rights. Learned counsel has further argued that the entertaining the present petition would amount to indirectly modifying the decree dated 04.12.2018, which is impermissible in writ proceedings. On the strength of these submissions, dismissal of the *petition in hand* has been canvassed for.

6. I have heard learned counsel for the rival parties and have perused the available record.



7. It would be apposite to refer herein to a judgment passed by this Court titled as ***Veerpal Kaur vs. State of Punjab and others*** = **2025:PHHC:113490**, relevant whereof reads as under:

“16. As a sequitur to the above rumination, the following postulates emerge:

I. The High Court’s jurisdiction to issue a writ of *Habeas Corpus* in minor child custody matter is predicated on the basic jurisdictional fact, namely, the minor child’s custody is demonstrably illegal/unlawful. In appropriate cases, the High Court may relax this jurisdictional prerequisite, in the interest of welfare of minor child.

II. The writ of *Habeas Corpus* is not a substitute for the comprehensive and evidence based procedures available under applicable guardianship statutes (such as *Hindu Minority and Guardianship Act, 1956*; *Guardians and Wards Act, 1890* etc.). As a matter of general judicial principle, the writ Court ought to ordinarily exercise restraint and defer dispute(s) to statutory forums unless accentuating circumstances necessitate such intervention by High Court

III. In all matters relating to the custody of minor child, the paramount consideration is the welfare of such child. In exercise of its *parens patriae* jurisdiction; the High Court may, in appropriate cases, upon a holistic examination of facts, take an inquisitional role to ensure that the custodial arrangement serves the best interest of the child, superseding the adversarial claims of the parties.

IV. In furtherance of a minor child’s welfare, the writ Court may issue interim order(s) concerning custody and other incidental aspects as warranted by exigencies of the situation, ensuring that the minor child’s well being remains the ultimate determinant of justice and thereafter refer parties to remedy(s) before statutory forum(s) for final/further determination of the lis.

V. The High Court, in its writ jurisdiction has unbridled, unfettered and plenary powers. No inflexible and comprehensive guidelines can conceivably be enumerated governing the exercise of these intrinsic powers. There is no gainsaying that the nature, mode and extent of such exercise of this jurisdiction by the High Court shall depend upon the judicial discretion exercised by the High Court in the facts and circumstances of a given case.”



7.1. It is a well-entrenched principle of law that in all matters pertaining to the custody of minor, the paramount consideration is the welfare and best interests of the child. This determination is not a mechanical exercise but requires a holistic and granular assessment of multifarious factors, ranging from the child's psychological well-being to their physical environment. Such an evaluation can only be effectively achieved through a rigorous examination of evidence, personal interaction with the minor, and the consideration of expert testimony (in appropriate cases); which involves a process inherently reserved for a Court of first instance and not suited for *summary* nature of writ jurisdiction. As underscored by the *dicta* of this Court in ***Veerpal*** (supra), a writ of *habeas corpus* cannot serve as a substitute for the comprehensive, evidence-based inquiry conducted by a competent family or guardianship Court.

Furthermore, where a court of competent jurisdiction has already adjudicated upon the merits of custody and reached a final determination, the High Court, in the exercise of its extraordinary writ jurisdiction, does not possess the mandate to disturb or re-evaluate those findings. The sanctity of a judicial decree issued by a specialized court must be respected, as the High Court is not an appellate forum for factual re-appreciation in the guise of a *habeas corpus* petition. The scope for interference under article 226 of the Constitution of India in such settled matters is exceedingly narrow, limited strictly to cases where a grave and immediate exigency demands urgent judicial attention. In such exceptional circumstances, the role of a writ court is confined to providing interim



measures or a '*cooling-off*' phase to ensure the minor's immediate safety, serving only as a transitional bridge until the parties can approach the appropriate statutory forum for substantive relief.

8. It is borne out from the record that the marriage between petitioner No.1 – mother and respondent No.5 - father was solemnized on 08.07.2010 and out of the wedlock, petitioner No.2 – minor child was born on 01.12.2011. Owing to matrimonial discord, the parties obtained a decree of divorce by mutual consent under Section 13-B of the Hindu Marriage Act, 1955, vide judgment and decree dated 04.12.2018 passed by the learned Civil Judge, Pune. Under the said decree, the permanent custody of the minor child was granted to the mother while respondent No.5 was conferred visitation rights, subject to terms and conditions agreed between the parties. The grievance projected in the present petition essentially revolves around allegations of misuse of visitation rights, ill-treatment of the minor child and alleged incidents of harassment and assault by respondent No.5 - father. However, these allegations are vehemently disputed by respondent No.5, who has asserted that the petition in hand is an attempt to frustrate his lawful visitation.

9. The documents placed on record and the submissions made by the learned counsel for the petitioner raise disputed questions of fact, which cannot be adjudicated at this stage. It is well settled that such disputed factual issues cannot be adjudicated in exercise of extraordinary writ jurisdiction under Article 226 of the Constitution of India. The relief(s) sought by the petitioners, particularly the prayer to restrain respondent No.5



from meeting or contacting the minor child (petitioner No.2 herein), would effectively amount to modification of visitation rights granted by a competent Civil Court at Pune. This Court is conscious of the fact that a writ of habeas corpus, in a factual matrix such as the present one, is essentially invoked to secure the life and personal liberty of a person. In the case in hand, this objective stands substantially achieved in view of the interim orders passed by this Court from time to time, pursuant to which the safety and liberty of the petitioners have been duly safeguarded. However, the main grievance raised by the petitioners pertains to the custody of the minor child born out of the wedlock of the rival spouses and to the modification of the condition(s) relating to the visitation rights as imposed by the competent Family Court at Pune. Such issues are essentially within the domain of the Family Court and are required to be addressed either before the Court which passed the original decree or before the jurisdictional High Court exercising supervisory or appellate control over the said Family Court. In the considered opinion of this Court, entertaining prayers which seek alteration, suspension or modification of the visitation condition(s) and would amount to sitting in appeal over the judgment and decree passed by the Family Court at Pune. This Court, not being the jurisdictional High Court in respect of the said decree, cannot assume such authority in exercise of its writ jurisdiction under Article 226 of the Constitution of India.

It is an axiomatic principle of Constitutional jurisprudence that the High Court, in the exercise of its writ jurisdiction under article 226 of the Constitution of India, possesses expansive and plenary powers, which are



unbridled and subject only to the doctrine of self-imposed restraint. However, this wide latitude does not grant a license to bypass established statutory *schema*. The exercise of extraordinary jurisdiction must be tempered by the realization that it cannot be used to usurp the functions or eclipse the jurisdiction of specialized forums, statutorily mandated to deal with the subject matter.

10. Another plea raised by the petitioners is regarding non-registration of FIR and inaction by the police authorities. In this regard, it is well settled that the Code of Criminal Procedure provides a complete statutory mechanism under Sections 154, 156(3) and 200 Cr.P.C. for redressal of such grievances. Without exhausting these remedies, the petitioners cannot directly invoke the extraordinary jurisdiction of this Court. Undoubtedly, the right to life and personal liberty under Article 21 of the Constitution of India is sacrosanct. However, mere apprehension and without *prima facie* material of imminent threat, cannot be the sole basis for issuance of directions for police protection or for restraining a parent (respondent No.5 – father herein) from exercising his lawful visitation rights. From the material brought/placed on record, this Court does not find sufficient ground to hold that there exists an imminent or extraordinary threat perception warranting interference by this Court in exercise of writ jurisdiction. The allegations made are yet to be tested before the competent forum and cannot be accepted at face value in writ proceedings.

11. In view of the preventient ratiocination, it is ordained thus:



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(i) The writ petition is dismissed. However, it is made clear that the petitioners are at liberty to avail/raise appropriate remedy(s) in accordance with law before the competent forum/Court, including seeking modification of visitation rights and/or pursuing remedies available under the Code of Criminal Procedure/ any other law extant.

(ii) It is further clarified that any observations made herein are confined only to the adjudication of the present writ petition and shall not prejudice the rights or contentions of either party in any other proceedings.

(iii) Pending application(s), if any, shall also stand disposed off.

**(SUMEET GOEL)
JUDGE**

December 17, 2025

Ajay

Whether speaking/reasoned:	Yes
Whether reportable:	Yes