

Constitution of India, Article 226 – Writ of Habeas Corpus – Suit filed by father for injunction for restraining the mother from taking forcible custody of the minor son pending – Habeas Corpus filed by the mother seeking custody of child wherein father was not made a party, dismissed – Petition under Section 25 of the Guardian and Wards Act before the learned Principal Family Court, for the custody of the child, pending – During the pendency of the petition before the Family Court for the grant of custody, the mother took away the child from the school and FIR was registered against her under Sections 346/120-B – Writ in the nature of Habeas Corpus filed by father – So far as the forcibly taking away of the child by the mother is concerned, although an FIR was lodged against her but the fact would remain that mere lodging of an FIR and continuation of a prosecution against the mother cannot override the welfare of the child – Court has not been able to find out any embargo or impediment or any other disadvantageous or factor as to why the mother should not continue with the custody of the child – While arriving at this conclusion this Court has also considered that as per the allegations made by the mother, the petitioner is in active connivance with police officials and is repeatedly threatening the mother which she has stated in her application – There is nothing on record to show as to whether the mother has applied any force or coercion to retain the custody of child except the FIR which pertains to wrongful confinement only.

[2022 PLRonline 7050](#)

[SHUBEG SINGH v. STATE OF PUNJAB, \(2022-1\)205 PLR 069, 2022 PLRonline 7050](#)