



In the High Court of Punjab and Haryana at Chandigarh

1. FAO No. 2921 of 2024 (O&M)
Reserved on: 30.8.2024
Date of Decision: 13.9.2024

Neha Kumari Appellant

Versus

Avtar Singh and others Respondents

2. CRWP No. 7587 of 2024 (O&M)

Neha Kumari Petitioner

Versus

State of Punjab and others Respondents

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Argued by: Mr. Dheeraj Mahajan, Advocate
for the appellant (in FAO-2921-2024) and
for the petitioner (in CRWP-7587-2024).

Mr. A.S.Manaishe, Advocate
for the respondent.

Mr. Maninderjit Singh Bedi, Addl. A.G., Punjab.

SURESHWAR THAKUR, J.

1. This order shall dispose of the appeal (supra) as well as the criminal writ petition (supra) filed by one Neha Kumari.

2. Respondent Avtar Singh filed a petition under Section 25 of the Guardian and Wards Act, 1890 (for short 'the Act of 1890'), before the learned Principal Judge, Family Court, Gurdaspur, thus seeking the custody of her minor son, who was aged about 2½ years at the time of filing of the petition (supra) before the learned Family Court concerned.

3. Through a decision made, on 30.5.2024, on the petition (supra),



the said petition became allowed and the custody of minor Arhaan Kumar was ordered to be handed over to respondent Avtar Singh. However, visitation rights were granted to appellant Neha Kumari to meet her minor son on every 2nd and 4th Sunday of the month for two hours in the public place.

4. The passing of the aforesaid verdict, thus led the appellant-wife to make an appeal thereagainst, through hers instituting the instant appeal before this Court.

5. Moreover, the criminal writ petition (supra) has been filed by petitioner Neha Kumari for the issuance of a writ in the nature of Habeas Corpus thus directing the respondents concerned to get released his son Arhaan Kumar, who is alleged to have been kidnapped by the respondents concerned.

Brief facts of the case

6. It is averred in the petition (supra), that the marriage of the appellant was solemnized with the respondent No. 1 on 30.1.2017 as per Sikh rites and ceremonies. Out of the said wedlock one namely Arhaan Kumar was born on 18.2.2018. It is further averred therein, that from the very beginning of the marriage, the behaviour of the appellant-wife was not good towards the respondent-husband and his family members. In the month of November 2018, the appellant-wife left her matrimonial home and went to her parental home. The appellant along with her relatives came to the house of the respondent-husband and damaged his car, and, also caused injuries to the brother and sister-in-law of the respondent-husband. Therefore, an FIR No. 45 dated 11.5.2019 under Sections 452, 323, 324, 427, 148, 149, 506 IPC became registered at Police Station Sadar Gurdaspur



against the appellant-wife and others. The appellant also got registered an FIR No. 41 of 8.5.2019, under Sections 498-A, 406, 506 IPC at Police Station Sadar Gurdaspur, District Gurdaspur against the respondent-husband by exerting political pressure. It is further averred in the petition (supra) that the respondent-husband came to know that the appellant-wife without obtaining divorce, has solemnized second marriage with one Sandeep Kumar. Minor Arhaan Kumar has been residing with respondents No. 2 and 3 (maternal grandparents) and they were not allowing the respondent-husband to meet the minor child. It is further alleged in the petition (supra) that his minor son was facing a lot of hardship in the house of respondents No. 2 and 3 as they were not properly providing him the education and other basic necessities. Moreover, the minor was not getting love and affection of his mother, and, that respondents No. 2 and 3 being old age and suffering from various old age ailments were unable to properly look after the minor. The respondent-husband also requested the respondents concerned, to hand over the custody of minor Arhan Kumar to him but they did not accede to his request.

7. During the pendency of the petition (supra) an application under Section 12 of the Guardians and Ward Act seeking the interim custody of the minor was filed by the respondent. Vide order dated 7.1.2021 passed by the learned Family Court concerned, the said application was allowed. Being aggrieved therefrom, the appellant approached this Court by filing of Civil Revision No. 102 of 2021, whereby the operation of the impugned order became stayed by this Court and granted the visitation rights to the respondent. Vide order dated 6.10.2023, passed by this Court, the Civil Revision (supra) became disposed of with a direction to the Family Court



concerned to dispose of the main petition within a period of nine months.

Submissions of the learned counsel for the appellant/petitioner (wife)

8. The learned counsel for the appellant-petitioner has argued before this Court, that the marriage of the appellant with respondent No. 1 was solemnized under compelling circumstances, as respondent No. 1 was having some objectionable photographs of the appellant and he threatened her to make the said photographs viral. He has further argued, that since the relationship of the appellant with respondent No. 1, thus falls within sapinda relationship, as respondent No.1 is the parental uncle of the appellant, therefore, the appellant filed a petition under Section 11 of the Hindu Marriage Act, whereby she sought the annulment of their marriage. Subsequently, as a counter-blast, respondent No. 1 filed the petition (supra) under the Act of 1890 whereby he claims the restoration of the custody of the minor child from the respondent. He has further argued before this Court, that the learned Family Court while deciding the petition (supra) has not considered the mandatory provisions of Section 6 of the Hindu Marriage Act, which provides that the custody of a minor, who is below the age of five years, shall ordinarily remain with the mother. The learned counsel has further argued, that upon an interaction with the minor child by the learned trial Judge concerned, he expressed his willingness to live with the appellant-mother. In addition, he has argued, that the learned Family Court has passed the impugned order only on the ground that the mother-appellant has been living in a live-in relationship with one Sandeep Kumar and that she has two children out of that relationship.

Submissions of the learned counsel for the respondent (husband)

9. On the other hand, the learned counsel for the respondent has



argued before this Court, that the appellant-mother has performed second marriage with one Sandeep Kumar, despite the fact that her marriage with the respondent-husband is still in subsistence. He has further submitted, that the welfare of minor child is of paramount importance, which would be served if his custody remains with the respondent. Furthermore, he has also submitted that respondent (father) is the natural guardian of the minor child, and, has been rightly granted the custody of the minor child by the learned Family Court concerned.

**Reasons assigned by the learned Family Court while allowing
the petition (supra)**

10. The learned Family Court while allowing the petition (supra) filed by the respondent herein for seeking the custody of the minor, has observed as under:-

21. Now, coming back to the instant case, it has been proved that Arhaan Kumar was born from the wedlock of petitioner Avtar Singh and respondent No. 1 Neha Kumari and thereafter, differences arose between them and in the year 2018, respondent No. 1 Neha Kumari left the society of the petitioner. As per the version of the respondent No. 1, she started living in a live-in relationship with one Sandeep Kumar and from the live-in relationship, two children have been born. It has been argued by the Ld. Counsel for the petitioner that respondent No. 1 has remarried and it would not be conducive to the growth of the child so, Neha Kumari should not retain minor Arhaan Kumar. No doubt, the remarriage is not a bar for the custody of the child. Each case has its own facts. In the instant case, as per respondent No. 1's own version, she is living in live-in relationship and two children have been born, from this relationship. It is also proved that minor Arhaan Kumar is not living with his mother Neha Kumari but with his maternal grandparents i.e. respondents No. 2 and 3. When I had an interaction with minor Arhaan Kumar, he has stated that he says Mamma to his Daddi/Nani and Pappa to his Dada/Nana. He has also stated that Neha goes to her house alongwith her children and he never



accompanied Neha Kumari to her house. He does not know that Neha is his mother rather, he calls his Nani as Mamma and Nana as Pappa. Further, respondent No. 1 has not disclosed any source of her income and of her parents. Though, the minor Arhaan Kumar has said that he wishes to remain in custody of Neha but at the same time, he has also stated that his nanu has told him to say so. Thus, the child Arhaan has been tutored. He is aged about 06 years. He is not mentally so mature to know the difference between Dada, Nana & Pappa and Dadi, Nani & Mamma and is not in a position to take decisions and to think what is good and what is bad for him. So, keeping in view the ratio of the above cited Judgments, the facts and the circumstances of the case, the conduct and the financial status of the parties, moral and ethical welfare of the child that the petitioner is none other but the father and natural guardian of the minor Arhaan Kumar and he has no adverse interest against him, that there is nothing on record to show any exceptional circumstance disentitling the petitioner to have custody of minor Arhaan Kumar, that minor Arhaan Kumar is seen comfortable with the petitioner Avtar Singh in the Court and for the best interest of the minor Arhaan Kumar, the petitioner is found entitled to the custody of the minor Arhaan Kumar. The respondents have failed to prove that what material facts are concealed by the petitioner and how the said petition is not maintainable so, all the issues No. 1 to 3 are decided in favour of the petitioner and against the respondents.”

Reasons for concluding that the minor childr is prima facie afflicted with Parental Alienation Syndrome vis-a-vis the present appellant

9. The Apex Court in a verdict rendered in case titled as **Vivek Singh versus Romani Singh** reported in **(2017) 3 Supreme Court Cases, 231**, has recognized the concept of Parental Alienation Syndrome. The relevant paragraph of the verdict (supra) is extracted hereinafter.

“16. The aforesaid observations, contained in para 31 of the order of the High Court extracted above, apply with greater force today, when Saesha is 8 years' old child. She is at a crucial phase when there is a major shift in thinking ability which may help her to understand cause and effect better and think about the future. She would need regular and frequent contact with each parent as well as shielding from parental hostility. Involvement of both parents in



her life and regular school attendance are absolutely essential at this age for her personality development. She would soon be able to establish her individual interests and preferences, shaped by her own individual personality as well as experience. Towards this end, it also becomes necessary for parents to exhibit model good behaviour and set healthy and positive examples as much and as often as possible. It is the age when her emotional development may be evolving at a deeper level than ever before. In order to ensure that she achieves stability and maturity in her thinking and is able to deal with complex emotions, it is necessary that she is in the company of her mother as well, for some time. This Court cannot turn a blind eye to the fact that there have been strong feelings of bitterness, betrayal, anger and distress between the appellant and the respondent, where each party feels that they are 'right' in many of their views on issues which led to separation. The intensity of negative feeling of the appellant towards the respondent would have obvious effect on the psyche of Saesha, who has remained in the company of her father, to the exclusion of her mother. The possibility of appellant's effort to get the child to give up her own positive perceptions of the other parent, i.e., the mother and change her to agree with the appellant's view point cannot be ruled out thereby diminishing the affection of Saesha towards her mother. Obviously, the appellant, during all this period, would not have said anything about the positive traits of the respondent. Even the matrimonial discord between the two parties would have been understood by Saesha, as perceived by the appellant. Psychologist term it as 'The Parental Alienation Syndrome' [29] It has at least two psychological destructive effects:

[29] The Parental Alienation Syndrome was originally described by Dr. Richard Gardner in "Recent Developments in Child Custody Litigation", The Academy Forum Vol. 29 No. 2: The American Academy of Psychoanalysis, 1985).

(i) First, it puts the child squarely in the middle of a contest of loyalty, a contest which cannot possibly be won. The child is asked to choose who is the preferred parent. No matter whatever is the choice, the child is very likely to end up feeling painfully guilty and confused. This is because in the overwhelming majority of cases, what the child wants and needs is to continue a relationship with each parent, as independent as possible from their own conflicts.

(ii) Second, the child is required to make a shift in assessing reality. One parent is presented as being totally to blame for all problems, and as someone who is devoid of any positive characteristics. Both of these assertions represent one parent's distortions of reality."

10. The above extracted paragraphs, as become carried in the verdicts (supra) rendered by the Apex Court, do cast an onerous duty upon the Courts of law, to attend to the dire necessity qua the omnibus needs' of the growing child, relating to his or her becoming endowed with bilateral parentings, whereby, the omnibus prosperity, maturity and thinking about



his or her future well being, would thus become well attended to. The abovesaid traits become stated therein to become instilled in the minor child, only if both the parents do engage themselves in nourishing and grooming the personality of the minor child. The paternal affection towards the minor children along with the father bearing all the expenses towards the well being and care of the minor children, thus do favourably inch towards providing omnibus nourishings and groomings of the personality(ies) of the minor children. Likewise, the mother of the minor children is also required to ensure that the requirements of motherly affection vis-a-vis the minor children, do become purveyed to them. Therefore, both fatherly affection, and, motherly care givings do become the sheet anchor, thus for potentializing the innate talents which every minor child possesses.

11. Initially, for gaugings being made, vis-a-vis the abilities and the innate potential of a minor child, which are thus required to be potentialized by care givings being meted to the minor child, both by the father and the mother, thus does encumber a joint responsibility upon the parents, to unearth the said innate talents, hence through regular interactions occurring inter se both the parents with their minor children. Though, segregation of any the parents from the minor child but naturally has a consequent ill-effect upon the personality of the minor child. The above may also lead to upon prolonged separation of the minor child from one of the parents, to the building up of the Parental Alienation Syndrome. The fostering of the said Parent Alienation Syndrome in the minor child, thus would also result in reluctance of the minor child to engage herself or himself with the parents from whom he or she becomes alienated. As such, there may be some family members of the minor child in whose custody the minor child does



live, thus becoming the enabling factor for the building up of the said syndrome. Furthermore, therebys the potentialities of the minor child which are required to become unearthed, through interactions being made with the minor child by both the mother and the father, rather would become the ill-casuality. The above would ultimately hold a cascading ill-effect upon the potential and innate talent which the minor child possesses. Therefore, as *parens patriae*, an incumbent duty becomes cast upon the Courts of law to initially diagnose the said syndrome, and, thereafter to proceed to make such efforts, wherebys the said etched syndrome in the minds of the minor child, thus becomes evacuated, so that he or she becomes the well recipient of bilateral parentings.

12. Be that as it may, the exercises which are engaged into by the Family Courts concerned, thus for objectively unearthing the desire and willingness of a minor child, rather to live with one or the other parent, but are bereft of deep profound exercises becoming embarked, rather for unearthing whether the Parental Alienation Syndrome has made its ill onset, upon the mindset of the minor child, wherebys it may have a consequential ill-effect upon the personality building of the minor child. Therefore, the confabulations entered into by the Family Courts concerned, with the minor child, thus in Court ambience, and, which ultimately may lead to the declining orders becoming passed, on the petitions relating to the custody of the minor child, rather *prima facie* appear to be perfunctorily made ill mechanical exercises. Therefore, to the considered mind of this Court, no deference is required to be meted to the said made mechanical exercises by the Family Courts concerned, wherebys they ultimately on the wish or aspiration of the minor child, as become declared by the minor child, do



ultimately hand over the custody of the minor child to the one or the other parent, and, also ultimately are led to deprive the custody of the minor child to one or the other parent.

13. Though, the Family Court concerned, in engaging themselves in confabulation(s) with the minor child, thus for ascertaining his wish to live with one or the other parent, do therebys well function as *parens patriae* towards the minor children. However, the said embarked exercises, thus in Court ambience, which but naturally has a domineering effect upon the psyche of the minor child, whereby the exercising of objective discretion at the instance of the minor child, does become obviously curtailed, besides especially given the prolonged retention of the custody of the minor child, with the person concerned, whereby he or she may have ultimately succeeded in creating an escalated level of animosity or ill-will towards the alienated parent. Therefore, the said engagements in Court rather may not prima facie inspire confidence nor can lead to a firm conclusion, that the refusal of the minor children to live with the alienated parent rather is a well made objective refusal, and/or that any reliance can be placed thereons.

14. However, for the completest effectivity becoming leveraged, thus for curbing the ill-potential of the Parental Alienation Syndrome, thus making its ill onsetting onto the psyche of the minor child, thereupon as *parens patriae*, the Courts of law are bounden to initially detect the ill onsettings of the said syndrome, upon, the mindset of the minor child, whereby but obviously on negation thereof, thus the well building of the personality of the minor children to the fullest and optimum level, rather would become ensured. Resultantly, the Family Courts concerned, may initially deem it fit to refer child custody matters to the counsellors



concerned, working in the Mediation Centres concerned, who on receiving the said references, may seek the assistance of the child psychologist, who may after prolonged deliberation with the minor child, thus make unearthings whether the child is afflicted with the malady of Parental Alienation Syndrome, rather leading to the fostering of animosity towards the alienated parent. If such a report is made by the psychologist concerned, thereupon, the said report is required to be forwarded to the Family Courts concerned. Resultantly, in terms of the said report, the Family Courts would become fully enabled to effectively function as *parens patriae*. Moreover, therebys they may ensure that the ill-effects, if any, of Parental Alienation Syndrome, are promptly erased, through given the evident infancy and nascent age of the minor children, thus their custody being handed over to the mother, who otherwise is their natural guardian. Consequently therebys the beneficent effects of motherly affection, at a nascent age, can become fully and optimally endowed upon the minor child, wherebys not only the innate talent of the minor children, does become potentialized but may also lead to the well building of virtuous traits in the minor children.

15. Moreover, the Apex Court in a verdict rendered in case titled as ***Col. Ramneesh Pal Singh versus Sugandhi Aggarwal*** reported in **2024 INSC, 397** has thus discussed the concept of Parental Alienation Syndrome. The relevant paragraph of the verdict (*supra*) is extracted hereinafter.

“20. PAS is a thoroughly convoluted and intricate phenomenon that requires serious consideration and deliberation. In our considered opinion, recognising and appreciating the repercussions of PAS certainly shed light on the realities of long-drawn and bitter custody and divorce litigation(s) on a certain identified sect of families, however, it is equally important for us to remember that there can no straitjacket formula to invoke the principle laid down by this Court in Vivek Singh (Supra).

x x x x

23. Accordingly, it is our considered opinion that Courts must endeavour to identify individual instances of ‘alienating behaviour’ in order to invoke the principle of parental alienation so as to overcome the preference indicated by the minor children.”



**Adultery of any parent is of no consequence for deciding
child custody matters**

16. This Court while dealing with the issue of adultery, thus in a verdict rendered in case titled as ***Mandeep Kaur versus State of Punjab*** reported in ***2021 SCC Online P&H 1060***, in the relevant paragraph thereof, para whereof becomes extracted hereinafter, thus has observed as under:-

“17. The respondent No. 4 has levelled allegations pertaining to the character of the petitioner that she was in an extra-marital relationship with a relative of the petitioner. Aside of the bald assertion in the petition, no supporting material has been brought before this Court. It would be worthwhile to note that in a patriarchal society, it is fairly common to cast aspersions on the moral character of a woman. More often than not these allegations are made without any basis or foundation. Even assuming a woman is or has been in an extramarital relationship, the same by itself cannot lead to the conclusion that she would not be a good mother to deny her the custody of her child.”

17. The Hon’ble Delhi High Court while dealing with the issue of adultery, thus in a verdict rendered in case titled as ***Vineet Gupta versus Mukta Aggarwal*** reported in ***2024 SCC OnLine Del 678***, hence in the relevant paragraph thereof has observed as under:--

“Adulterous Spouse” is not equivalent to “Incompetent Parent”. Points for consideration in Divorce proceedings and custody matters may be co-related but are always mutually exclusive. Any adulterous relationship or extramarital affair of either spouse, cannot be the sole determining factor to deny custody of a child, unless it is proved that the adulterous relationship in itself is pernicious/detrimental/injurious to the welfare of the child.”

18. The Apex Court in a verdict rendered in case titled as ***Somprabha Rana and others versus The State of Madhya Pradesh and***



others reported in (2024) LiveLaw (SC) 666, answered the question *qua* why instead of writ Courts the Regular Civil Courts or Family Courts are in an advantageous position for dealing with cases appertaining to the custody of the child. The Court also summarized the principles regarding Habeas Corpus writs dealing with child custody. The relevant paragraphs of the verdict (*supra*) becomes extracted hereinafter.

“6. After having perused various decisions of this Court, the broad propositions of settled law on the point can be summarised as follows:

- a. Writ of Habeas corpus is a prerogative writ. It is an extraordinary remedy. It is a discretionary remedy;*
- b. The High Court always has the discretion not to exercise the writ jurisdiction depending upon the facts of the case. It all depends on the facts of individual cases;*
- c. Even if the High Court, in a petition of Habeas Corpus, finds that custody of the child by the respondents was illegal, in a given case, the High Court can decline to exercise jurisdiction under Article 226 of the Constitution of India if the High Court is of the view that at the stage at which the Habeas Corpus was sought, it will not be in the welfare and interests of the minor to disturb his/her custody; and*
- d. As far as the decision regarding custody of the minor children is concerned, the only paramount consideration is the welfare of the minor. The parties' rights cannot be allowed to override the child's welfare. This principle also applies to a petition seeking Habeas Corpus concerning a minor.*

x x x x

10. We believe that considering the peculiar facts of the case and the child's tender age, this is not a case where custody of the child can be disturbed in a petition under Article 226 of the Constitution of India. Only in substantive proceedings under the GW Act can the appropriate Court decide the issue of the child custody and guardianship. Regular Civil/Family Court dealing with child custody cases is in an advantageous position. The Court can frequently interact with the child. Practically, all Family Courts



have a child centre/play area. A child can be brought to the play centre, where the judicial officer can interact with the child. Access can be given to the parties to meet the child at the same place. Moreover, the Court dealing with custody matters can record evidence. The Court can appoint experts to make the psychological assessment of the child. If an access is required to be given to one of the parties to meet the child, the Civil Court or Family Court is in a better position to monitor the same.”

19. The reasons for making the said conclusion become obviously embodied in the hereinabove inferences which become drawn by this Court.

20. While determining the custody of the minor children the most important factor which is to be considered is the welfare of the children.

21. The parameter (supra) has been approbated by the Apex Court in the verdict rendered in case titled as ***Yashita Sahu versus State of Rajasthan*** reported in ***AIR 2020 Supreme Court 577***, wherein, it has been observed as under:-

17. It is well settled law by a catena of judgments that while deciding matters of custody of a child, primary and paramount consideration is welfare of the child. If welfare of the child so demands then technical objections cannot come in the way. However, while deciding the welfare of the child it is not the view of one spouse alone which has to be taken into consideration. The courts should decide the issue of custody only on the basis of what is in the best interest of the child.

18. The child is the victim in custody battles. In this fight of egos and increasing acrimonious battles and litigations between two spouses, our experience shows that more often than not, the parents who otherwise love their child, present a picture as if the other spouse is a villain and he or she alone is entitled to the custody of the child. The court must therefore be very wary of what is said by each of the spouses.

19. A child, especially a child of tender years requires the love, affection, company, protection of both parents. This is not only the requirement of the child but is his/her basic human right. Just



because the parents are at war with each other, does not mean that the child should be denied the care, affection, love or protection of any one of the two parents. A child is not an inanimate object which can be tossed from one parent to the other. Every separation, every reunion may have a traumatic and psychosomatic impact on the child. Therefore, it is to be ensured that the court weighs each and every circumstance very carefully before deciding how and in what manner the custody of the child should be shared between both the parents. Even if the custody is given to one parent the other parent must have sufficient visitation rights to ensure that the child keeps in touch with the other parent and does not lose social, physical and psychological contact with any one of the two parents. It is only in extreme circumstances that one parent should be denied contact with the child. Reasons must be assigned if one parent is to be denied any visitation rights or contact with the child. Courts dealing with the custody matters must while deciding issues of custody clearly define the nature, manner and specifics of the visitation rights.”

22. Since, as stated (supra), the minor child is required to be the well recipient of both motherly and fatherly care givings, nor when the said endowments can become the ill-casualties. Therefore, even if assumingly the mother of the minor child, is in a live-in relationship, thereby the care, affection or the endowment of motherliness, upon the minor child, but cannot become curtailed or fettered in any manner. The above is a dire biological need, and/or is a biological bondage inter se the mother and the minor children, which cannot be snapped, even if marital ties amongst the husband and the wife becomes severed or become snapped.

23. In the light of the above, the entering of any live-in relationship by any partner to a lawful marital relationship, which may have overtones of adultery, thus is not required to be working as an obstacle rather for the mother to receive the custody of her infant/nascent child, as thereby



Final Order

24. Consequently, the impugned order is quashed and set aside. The matter is remanded to the Family Court concerned, who after receiving the instant case, shall refer the same to the counsellors concerned. The counsellor concerned, on receiving the reference, may seek the assistance of the child psychologist, who may after prolonged deliberations with the minor child thus shall make unearthings whether the child is afflicted with the malady of Parental Alienation Syndrome. The respondent is directed not to interfere in the making of such deliberations by the counsellor concerned, with the minor child, during course whereof, he can under strict vigil, thus make visitations upon the minor child. If such a report is made by the psychologist concerned, thereupon, the said report shall be forthwith forwarded to the Family Court concerned, so that in terms of the said report, the Family Court concerned, may ably and effectively function as *parens patriae*, and, thereby ensure that the ill-effects of Parental Alienation Syndrome rather become promptly erased.

25. The matter be positively decided within six months from today but after hearing all the concerned.

26. Since this Court has quashed the impugned order, and, has also made an order of remand to the extent (*supra*), therebys till the remanded lis is decided, thereupto the respondent concerned, is directed to forthwith restore the custody of the minor child to her mother i.e. the present appellant. However, the said restoration of custody of the minor child to the mother-appellant would be subject to the outcome of the remanded lis.

27. With the afore observations and directions (*supra*), FAO No. 2921 of 2024 stands disposed of.



28. Insofar as CRWP No. 7587 of 2024 is concerned, since this Court has quashed the impugned order, and, has also made an order of remand to the extent (supra), therefore, the petition (supra) becomes rendered infructuous and is dismissed as such.
29. Conspicuously also when the Apex Court in *Somprabha Rana’s* case (supra) has declared that in child custody matters the availment of Civil Court remedy is a better recoursesable remedy than the remedy of a Habeas Corpus petition being recoured, at the instance of the aggrieved parent concerned.
30. Resultantly since the child psychologists are required to assist the counsellors working at the Mediation Centres concerned, therefore, a direction is made upon the District Health Officers concerned, in the States of Punjab and Haryana and in the State of Union Territory, Chandigarh, to on a regular basis appoint child psychologists at all the Mediation Centres, in the States of Punjab, Haryana and in U.T., Chandigarh.
31. The compliance report in the above regard, be placed on record within a month from today.
32. List only for the afore purpose, on 14.10.2024.
33. The miscellaneous application(s), if any, is/are also disposed of.

(SURESHWAR THAKUR)
JUDGE

(SUDEEPTI SHARMA)
JUDGE

September 13th, 2024
Gurpreet

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No