

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

**CRWP No.1941 of 2014.
Date of decision: 06.01.2015.**

Harleen Kaur

....Petitioner

Versus

State of U.T., Chandigarh and others

....Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN.

Present: Petitioner in person with
 Mr. Gaurav Chopra, Advocate.

 Mr. Sukhwant Gupta, APP,
 for U.T., Chandigarh.

 Mr. T.S. Sangha, Sr. Advocate
 with Mr. J.S. Lalli, Advocate
 for respondents No.2 to 4.

JITENDRA CHAUHAN J. (Oral)

The present criminal writ petition has been filed under Article 226 of the Constitution of India read with Section 482 of Code of Criminal Procedure, to secure the custody of the child, namely, Aafreen Kaur, who is in the custody of respondents No.2 to 4.

Heard.

Written statement along with Annexures P-1 to P-4, filed on behalf of respondents No.2 to 4, in the Court is taken on record. The parties present in the Court are heard in person. The

custody of the child was handed-over to respondent No.2, in pursuance of the agreement dated 20.08.2014 (Annexure P-3), reached between the parties with the intervention of the family members and relatives. The petitioner voluntarily left the matrimonial home along with the child. The reasons for handing-over the custody of the child have not been spelled-out in the agreement. The child is residing with respondent No.2 i.e the father and by no stretch of imagination, it can be said that the child is in the illegal custody. It is also worth noticing that respondent No.2, has filed a petition under Section 9 of the Hindu Marriage Act for the restitution of conjugal rights. This shows the bona fide of respondent No.2 to join the company of the petitioner. The respondent No.2, has sufficient means to raise the child. The child is attending the school and looked after properly.

In view of the above, at this stage, this Court feels that the interest of the child is better watched, in case the child remains with respondent No.2. In the circumstances, the present petition is dismissed. However, the petitioner is free to avail the remedies available to her, in accordance with law.

(JITENDRA CHAUHAN)
JUDGE

06.01.2015.
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