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

**FAO No. 4192 of 2016
Date of Decision : 10.08.2017**

Aarti Yadav

....Appellant

Versus

Subash Chand

....Respondent

**CORAM : HON'BLE MR. JUSTICE M.M.S. BEDI
HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH**

Present: Mr. S.K. Tripathi, Advocate,
for the appellant.

Mr. Rakesh Dhiman, Advocate,
for respondent.

M.M.S. BEDI, JUDGE (ORAL)

Vide order dated 06.04.2016, the petition under Section 13-B of the Hindu Marriage Act, 1955, filed by the parties to the appeal, was allowed.

The Family Court, while granting a decree of divorce by mutual consent, has also handed over the custody of the minor child to the father by making certain observations against the appellant-mother.

Learned counsel for both the parties submit that there is no grievance regarding the divorce having been granted by mutual consent, but the observations pertaining to the conduct of the wife and the delivery of child to the father have been challenged in this appeal.

We have considered the facts and circumstances of the case and are of the opinion that as the parties are aggrieved by the final result of the grant of divorce by mutual consent, the appeal will not be maintainable, regarding the controversy raised. It is pertinent to mention here that the appellant, being mother, has got a right for claiming the custody of child or claiming any interim arrangement as per the provisions of law, by approaching the competent Court of jurisdiction, i.e. the Guardian Judge, under the Guardian and Wards Act, 1890 or availing any other remedy.

The adverse observations made against the conduct of the appellant are hereby set aside, considering the same to be the moment reaction of mother, while parting the company of her minor daughter, in view of the affection shown by the minor daughter, in the Court, towards the father. Nothing said in order dated 06.04.2016 will prejudice the right of the appellant-mother, while claiming her right under Sections 25 or 12 of the Guardian and Wards Act, 1890.

This Court being not the original Court of Guardian Judge, is legally not entitled to grant any relief, regarding custody of the child, in view of the specific statutory remedy available to the appellant.

This appeal is disposed of as not maintainable with liberty to the appellant to avail the remedy under Sections 25 or 12 of the Guardian

and Wards Act, 1890. It is further ordered in the interest of justice that in case any such application is filed, the Family Court will ensure that the application under Section 12 is decided within a period of 15 to 30 days.

(M.M.S. BEDI)
JUDGE

(AUGUSTINE GEORGE MASIH)
JUDGE

10.08.2017
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Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No