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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(CRL) 1927/2017

SHAYARA HATOON Petitioner
Through Mr.Mobin Akhtar, Adv.

versus

STATE OF NCT DELHI & ANR Respondents
Through Mr.Rahul Mehra, Standing Counsel
(Crl.), GNCTD with Mr.Tushar Sannu,
Adv. for the State, along with SI Amar
Singh, PS Saket, in person.
Mr.T.M.Subhani, Adv. with Mr.Rashid
Hussain, Adv. for Mr.G.M.Tahir, husband
of the petitioner.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MR. JUSTICE CHANDER SHEKHAR

ORDER

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10.08.2017

Petitioner has filed the present writ petition under Article 226 of the Constitution of India seeking a writ of *habeas corpus*. The petitioner has alleged that her husband has illegally removed her 09 years old daughter from her custody.

Notice was issued in this matter. On 24.07.2017, this Court passed the following order:

“Present petition has been filed by the petitioner alleging that her husband has illegally removed her nine year old daughter from her custody.

Notice in the petition was issued on 12.7.2017. The daughter of the petitioner was also directed to be produced in Court today. Today the nine year old daughter of the petitioner has been produced in Court from CCI (Child Care Institution) Lajpat Nagar, New Delhi.

Petitioner along with her counsel and husband of the petitioner are also present in Court.

We have interacted with the child in the Chamber in the presence of Ms.Radhika, APP for the State. The child has expressed her desire to stay with her father. We have thereafter interacted with the petitioner and also the father of the child. The petitioner submits that she is being ill treated by her husband, she was sent to her parents' home in the year 2015, her child was illegally removed from her custody, it is only in the month of May, 2017, that she was able to find the address of her husband and she has now returned. This is disputed by the father of the child. He submits that on account of a marital discord the parties have been residing separately since the year 2015 and the child is being looked after by him, which has been admitted to the Court today. He submits that he has been residing at the same place, which the petitioner is well aware. He further submits that he has been continuously looking after the child and has been sending her to school.

After some hearing, it is agreed that for the present the custody of the child would remain with the father as a purely interim measure, however, the father would have no objection if the mother meets the child once in a week. The father has also agreed that he will not oppose the child talking to the petitioner on phone. Ordered accordingly.

Accordingly, as further agreed, and in view of above, the custody of the child is handed over to the father. We make it clear that the above arrangement is purely interim in nature and in case any of the parties approach the appropriate Court(s) of jurisdiction with regard to custody of the child or any other matter, the said court(s) would decide the matter unaffected by the observations made by this Court.

As agreed, list this matter before Delhi High Court Mediation and Conciliation Centre on 25.7.2017 at 2.30 pm. The Mediation Centre would appoint a Mediator conversant with family matters. Both parties agree to cooperate with the Mediator.

List this matter before Court on 1.8.2017 for reporting settlement, if any.”

Today we are informed by the counsel for the parties that the mediation was a non-starter. Since the child has been continuously residing with her father/husband of the petitioner at least since 2015 as admitted and in view of the stand taken by the parties as noticed in the order dated 24.07.2017, as agreed

the petition is disposed of. However, we grant liberty, as prayed, to the petitioner to approach the appropriate Court of jurisdiction to safeguard her interest.

For the next three months, it is agreed that the father would have no objection if the mother meets the child at the Child Observation Room in Saket Family Courts at 4.00 p.m. for two hours on every alternate Saturday. We expect the meeting to be cordial and fruitful. In addition to this, the child will be allowed to speak to her mother on phone at least once a week. We make it clear that this arrangement is purely interim in nature and for a period of three months from today, to enable the petitioner to approach the appropriate Court of jurisdiction.

As per Mr.Tahir/father, his present address is C-II, 79-B, Rajiv Park, Khanpur, New Delhi-110062. If there is any change of address in future, he will inform the petitioner through her present counsel.

The petition stands disposed of.

G.S.SISTANI, J.

CHANDER SHEKHAR, J.

AUGUST 10, 2017/ka

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