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

+ **W.P.(CRL) 3369/2017**

AZAD BHATI

..... Petitioner

Through: Mr. S.N. Pandey, Vashisth Kr, Basant
Divedi, Rohit Kumar and Himanshi,
Adv.

versus

STATE (GNCT DELHI) & ANR

..... Respondent

Through: Mr. Jamal Akhtar, Adv. for Mr.
Rahul Mehra, Standing Counsel for
GNCTD
Mr. K.S. Negi, and Mr. Shyam Babu,
Adv for R-2
Mr. Ranjeet Chaudhary, Welfare
Officer, CWC I

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MR. JUSTICE P.S.TEJI

ORDER

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07.12.2017

Preeti has been produced from the Children Home at Nirmal Chhaya. Nirmal Chhaya has tendered in court a written submission, which is taken on record. In this written submission, they have stated that the age of Preeti is determined as 20 years, and that she is a major.

Smt. Sundar Devi is present in court. The petitioner is also present in court and he identifies her as his ex-wife.

As per the status report dated 30.11.2017 filed by the SHO, PS Sarojini Nagar, it is stated that vide judgment dated 01.09.2016 passed by Sh. Anil Kumar Singh, HJS, Principal Judge, Family Court, Gautam Budh Nagar in O.S. No.79/2016, a decree for dissolution of marriage between the petitioner and Smt. Sundar Devi has been passed by mutual consent. The said judgment records that Rs.2.50 lacs has been paid vide demand draft by Sh. Azad Bhati, (petitioner no.1 in those proceedings) to Smt. Sundar Devi, (petitioner no.2 in those proceedings).

Smt. Sundar Devi states that she has not received any such amount. She further states that she is unlettered and on two occasions, the petitioner Azad Bhati had obtained her thumb impression on some papers on the pretext that some properties had to be purchased in her name. She states that she is still married to the petitioner; she has never consented to obtain divorce from the petitioner, and; she continues to reside with the petitioner and her three children in her matrimonial home.

The petitioner, who is present in court, states that he paid the said amount of Rs.2.50 lacs in cash. However, he admits that he is not possessed of any receipt of the said amount. Smt. Sundar Devi denies receipt of the said amount in cash or in any other way.

From the aforesaid, it appears that the petitioner has no receipt in respect of the payment claimed to have been made to Smt. Sundar Devi of Rs.2.50 lacs.

The IO, PS Sarojini Nagar, who is investigating the FIR in question being FIR No.189/2017 u/s 363 IPC shall also examine the aforesaid aspect

and examine whether any other offence is, *prima facie*, made out against the petitioner.

We have interacted with Preeti in chamber. She has also spoken to her parents who are present in court in the presence of the lady police officer. Preeti is insistent that she wishes to reside with the petitioner. Since Preeti is a major, she is entitled to take her own decisions. Eventually, it is for her to see what is in her best interest.

In these circumstances, we direct the State to allow Preeti to go with the petitioner.

The petitioner, who is present in court, has undertaken to the court that Preeti shall be kept properly and she shall not come to any kind of harm whatsoever while she is residing with him.

We have advised the parents of Preeti not to take the law into their own hands.

With these directions, the petition stands disposed of.

VIPIN SANGHI, J

P.S.TEJI, J

DECEMBER 07, 2017

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