

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

**Civil Revision No.6174 of 2017 (O&M)
Date of Decision:08.01.2018**

Aarushi Chaudhary

.....Petitioner

Vs

Vikas Dhillon

....Respondent

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present:Mr. Sumit Gupta, Advocate
for the petitioner.

Mr. Parminder Singh, Advocate
for the respondent.

RAJ MOHAN SINGH, J.

[1]. This revision petition has been preferred by the petitioner against the order dated 25.08.2017 passed by the District Judge (Family Court) Karnal, whereby visitation rights were granted in favour of the respondent to meet the minor child aged about 2¾ years as per the schedule given in the impugned order.

[2]. Vide the impugned order, the District Judge (Family Court) Karnal has allowed the respondent to meet the minor child for three hours on week days i.e. Monday and Wednesday

from 4.00 p.m. to 7.00 p.m. Respondent was allowed to meet the minor child for five hours from 2.00 p.m. to 7.00 p.m. on 26th January, 15th August, 1st November (Haryana Day), 14th November (Children's day) and on festive occasions of Holi and Diwali. Respondent was also granted visitation right to meet the child from 4.00 p.m. to 6.00 p.m. on his birthday i.e. on 24.11.2014. Both the parties were asked by the Family Court to suggest the common meeting point for handing and taking over the custody of the child for visitation. The failure to reach on a consensus ultimately entailed in passing of the order that the custody of the minor Agastya will be taken and handed over for visitation at Nirmal Kutiya near Court Complex, Karnal.

[3]. Learned counsel for the petitioner contended that the interest and welfare of the minor is of paramount consideration. Both the parties have made allegations and counter allegations. Learned counsel further contended that even during the proceedings, a petition under Section 9 of Hindu Marriage Act (for short 'the Act') was filed by the respondent at Jind and the respondent has created many scene at Karnal resulting in preparation of *kalendra* under Section 107/150 Cr.P.C. at the instance of father of the petitioner. The respondent remained posted at Jind from September 2015 to May 2016 and the petition under Section 9 of the Act was filed during currency of

his aforesaid stay at Jind. Now the respondent is posted at Karnal, where the petitioner is also serving as Medical Officer, Gynae Department, Kalpana Chawla Medical College & Civil Hospital, Karnal.

[4]. Learned counsel further contended that custody of the minor child is not safe in the hands of the respondent as he did not pay any visit at the time of birth of the child, rather he claimed that he was not the father of the child. Learned counsel by referring to the SMS dated 03.02.2015 sent by the respondent submitted that birth of the child was even not known to the respondent till 03.02.2015. He never visited the petitioner at the time of birth of the child and the intimated conversation between the couple was to the effect that paternity of the child was denied by the respondent.

[5]. Learned counsel further raised allegations of sexually perverted nature of the respondent. The same were made in para No.1(b) of the reply to the petition under Section 25 of the Guardian and Wards Act.

[6]. I have heard the submissions made by learned counsel for the parties.

[7]. At this juncture this Court cannot decide the allegations and counter allegations of the parties, but the welfare of the

minor child is of paramount consideration keeping in view the tender age of the minor. Petitioner has not filed any petition against the respondent either under Hindu Marriage Act or criminal code. It appears that the *kalendra* under Section 107/150 Cr.P.C. was filed at the instance of father of the petitioner and the respondent has filed a petition under Section 9 of the Act at Jind.

[8]. This Court has also made an effort for reconciliation between the parties, however the interaction with the parties yielded no result.

[9]. While issuing notice of motion on 13.09.2017, this Court stayed operation of the impugned order till the next date of hearing. Thereafter the Court interacted with the parties on 14.11.2017 and adjourned the case for 22.11.2017. The petitioner had to file CM No.25623-24-CII of 2017 for placing on record the Annexures P-7 to P-12 and for continuation of the interim order passed on 13.09.2017 as the respondent had pressed for the visitation rights. The District Judge (Family Court) Karnal vide order dated 17.11.2017 directed the petitioner to produce the minor son before the Court for visitation purpose on 27.11.2017. This court vide order dated 30.11.2017 extended the interim order dated 13.09.2017 till 20.12.2017.

[10]. In view of the aforesaid contest, it appears that the respondent has not waited for the decision of the present revision petition, when the Court did not extend the interim order during the intervening period of interaction between the parties.

[11]. It is a settled principle of law that interest and welfare of the minor in terms of his health, education, personality and safety are of paramount consideration before the Court. The alleged denial by the respondent in the context of paternity of the minor was a personal communication to the wife and nobody can be privy to that. Wife may have reasonable apprehension in terms of safety and welfare of the child on that count.

[12]. Petitioner has not filed any litigation against the respondent. The Family Court has granted the visitation rights as per schedule given, which in my considered opinion needs to be revisited, keeping in view *inter se* allegations of the parties which are yet to be proved.

[13]. Keeping in view the avocation of the parties and the age of the minor, it would be proper to make uniform schedule of visits. Instead of frequent visits in a week, the respondent can be allowed to meet the child once a month and on the birthday of child. This would suffice to meet the ends of justice. The Family Court is directed to reschedule the visitation rights,

thereby fixing an agreed date between the parties in a month, besides allowing the respondent to meet the child on the birthday, otherwise welfare of the child may be at stake.

[14]. The Family Court shall take all reasonable steps to ensure safety and welfare of the child during availing visitation rights by the respondent.

[15]. With the aforesaid modification, this revision petition is disposed of.

January 08, 2018	(RAJ MOHAN SINGH)
<i>Atik</i>	JUDGE
Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No