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

+ **W.P.(CRL) 247/2018**

SHILPI BANSAL

..... Petitioner

Through: Mr.Anurag Ojha, Advocate with
Mr.Ravi Karhana, Advocate

Versus

THE STATE GOVT OF NCT OF DELHI & ORS Respondents

Through: Mr.Rahul Mehra, Standing Counsel
(Crl.) with Mr.Tushar Sannu and
Mr.Chaitanya Gosain, Advocates for
State
Inspector Arti Sharma, SHO, PS-
Ashok Vihar with SI Anuj
Mr.Anil Soni, CGSC with
Ms.Priyanka Singh, Advocate for R-
2/UOI.

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE I.S.MEHTA

ORDER

% **24.01.2018**

1. This is a writ petition filed as a *habeas corpus* petition by the mother of two minor children i.e. Master Kabir Bansal aged 4 years and Master Kartik Bansal aged 2 ½ years who according to her have been illegally confined by her husband Mr. Himanshu Bansal who is impleaded as Respondent No.6.

2. This petition was first listed for hearing on an urgent basis on 22nd January, 2018. The Court had directed issuance of notice to the State and listed the petition for today.

3. Inspector Aarti Sharma, the Station House Officer ('SHO') of Police Station ('PS') Ashok Vihar, has filed a status report in which it is stated that he visited the matrimonial house of the Petitioner at B-3/25, Ashok Vihar, Phase-2 and Respondent No.6 also joined the inquiry. It is stated that Respondent No.6 informed that a matrimonial dispute with the Petitioner is ongoing and proceedings pending before the Crimes Against Women (CAW) Cell/North West at present. He further disclosed that both children are in his custody. The elder child is studying at De Indian Public School, Ashok Vihar, Phase-1. The SHO who visited the said school found the elder child present in the said school. It was seen from the school records that he has been attending the school since 11th January, 2018. The report of the concerned school has been enclosed along with the status report.

4. Respondent No.6 further disclosed to the IO that Petitioner had left her matrimonial home due to a dispute on 22nd June 2017, after which she got the admission of the elder child transferred from the Shri Ram Global School at Ashok Vihar where he was studying to its Rohini Branch. The Respondent No.6 later got the admission restored to the Ashok Vihar branch of the Indian Public School. As far as the second son is concerned, the status report states that he is presently attending the Kids Elementary, Nursery School at B-2 Block, Ashok Vihar, Phase-II. The SHO visited the school and found the child present at the school. The records of the school show that he enrolled there on 28th November, 2017 and has been regularly attending the school from the said date. The SHO also has confirmed the treatment received by the second child from Dr. Parveen Suman of Sir

Ganga Ram hospital for occupational therapy.

5. The status report notes that the Petitioner has filed two complaints against her husband and in-laws on 29th November, 2017 and 2nd January, 2018 and both have been referred to the CAW Cell/North West where proceedings are in progress. The status report concludes by pointing out that this is essentially a matrimonial dispute with both children currently in the custody of the father.

6. Learned counsel for the Petitioner sought to urge the fact that two children aged below 5 years are with their father, to the exclusion of the mother, itself meant that they were in illegal custody. The Court finds no legal basis for this kind of broad, sweeping assertion. On a perusal of the status report it is seen that this is essentially a dispute that has arisen out of matrimonial discord. The dispute *inter alia* is as regards the custody of the two children. The complaints lodged by the Petitioner are presently being looked into by the CAW Cell.

7. In the circumstances, the Court is not inclined to entertain this petition. This will, however, not preclude the Petitioner from seeking any other legal remedy that she may have for the relief of seeking custody of her children.

8. The petition is disposed of in the above terms.

S. MURALIDHAR, J.

I.S. MEHTA, J.

JANUARY 24, 2018/sr