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

+ **W.P.(CRL) 1355/2017**

SURABHI PADHY

..... Petitioner

Represented by: Mr. Chandra Shekhar Panda,
Advocate.

versus

COMMISSIONER OF POLICE & ORS

..... Respondents

Represented by: Ms. Meenakshi Chauhan, APP
for Ms. Kamna Vohra,
Additional Standing Counsel
for State with SI Deepak
Mahla, PS Janakpuri.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

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22.02.2018

Crl. M.A. No. 7477/2017 (Exemption)

Allowed, subject to all just exceptions.

**W.P.(CRL) 1355/2017 and Crl. M.A. Nos. 7478/2017, 7479/2017 and
7480/2017 (directions)**

1. By the present petition the petitioner prays for the following relief:

“a) *to pass an appropriate order/directions including a suitable writ in the nature of CERTIORARIFIED MANDAMUS thereby directing the respondent NO 14 Family Court to grant the relief of maintenance to the tune of 3 lakhs for both the mother petitioner lady and the minor twin school going children while causing modification of the earlier directions directing the respondent husband to visit the residential premises of*

the petitioner lady to seek the children to the extent that hence forth the erring respondent be restricted to a point 5 km away from the residential premises of the petitioner lady so that the respondent husband could fulfil his desire to visit his own children outside the premises of the petitioner lady for 2-3 hours maximum that too under the monitoring/watch of the police preferably lady police while further thereby directing the other government respondents to explain and show cause as to why they be not proceeded against in law entailing the saddling of damages, compensation and the indictment/warning as against the respondent depending upon their status/nomenclature appointing their status/nomenclature apportioning their respective shares in the resultant contribution towards the greater damage and injustice perpetuated at the hands of private respondents aided by the none-too-serious, sincere and prompt police respondent no. 3 who treated the petitioner lady with utmost neglect in attending to her complaint/grievance at the relevant point of time making her a pitiable ordinary person with no semblance of promptitude and immediacy leading to the loss of faith in the police part of administration of justice allowing the private respondents to go scot free;

- b) *Pass a peremptory directions thereby restraining the stubborn law breaking private respondent in laws from entering into the residential premises of the petitioner lady staying with her children indoors under the garb of visitation right grant to visit the children in question while calling for the refund of the ATM card of the husband of the petitioner as also refund of two blank signed stamp papers now lying in the illegal custody of the husband respondent who is also liable to be directed for returning the keys of the bank locker at*

jajjang in Orissa where the husband respondent is working as GM of the company concerned;

- c) Directing the IO respondent police to cause forth with arrest of the in laws including the elder sister of the respondent Madhumita Pata Joshi and her husband towards smooth return/recovery/refund of not only to blank signed stamp papers since forcibly procured from the petitioner lady by the respondent husband at Barbil, Jajang, Odisha on the material date along with the locker keys belonging to the petitioner lady while she was in Odhisha along with the respondent husband.*
- d) To direct the private respondent husband to return back the blank signed stamp papers along with the locker keys in respect of a Jajang, Odhisha based locker that has since been misused being kept away from the operation/use by the petitioner lady illegally and forcibly;
and*
- e) to Pass any other order/orders as this Hon'ble Court deems fit and proper to meet the ends of justice"*

2. No mandamus can be issued to the family court for grant of maintenance @ ₹3 lakhs to the petitioner. Maintenance to a party has to be decided by Court based on the evidence of the parties. The second prayer in the petition seeks peremptory directions restraining the private respondent in law to not enter into the residential premises. Alternative remedies in accordance with law are available to the petitioner in this regard and writ petition is not the appropriate remedy. Further directions are sought to the Investigating Officer to arrest the in laws including the elder sister-in-law.

Though the Court may direct the Investigating Officer to take appropriate action in accordance with law but the investigation can be carried out even without arrest. No mandamus can be issued to the Investigating Officer to arrest the accused if the investigation of an offence can be carried out without arrest. Prayer (d) of the petition also cannot be granted between the parties in the present petition.

3. Petition and the applications are therefore dismissed as misconceived. Order dasti.

MUKTA GUPTA, J.

FEBRUARY 22, 2018
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