

High Court for the State of Telangana

**THE HONOURABLE THE CHIEF JUSTICE
SRI RAGHVENDRA SINGH CHAUHAN
AND
THE HON'BLE SRI JUSTICE A.ABHISHEK REDDY**

Writ Petition No.19581 of 2019

Date: 16.09.2019

Between:

Ms.Raba Lateef

... Petitioner

... And

The State of Telangana,
Rep. by its Principal Secretary, Home,
Having office at BRK Bhavan,
Hyderabad and 3 others

... Respondents

Counsel for the petitioner : Mr. Mohd.Osman Shaheed

Counsel for the respondent Nos.1 to 3: Mr.S.Santosh Kumar,
Government Pleader for State

The Court made the following:

ORDER: (Per the Hon'ble the Chief Justice Sri Raghvendra Singh Chauhan)

This habeas corpus petition has been filed by the petitioner, Ms.Raba Lateef, *inter alia* on the ground that her daughter, namely Syed Ameera, aged 5 years old, and son, namely Syed Afnan, aged about 2½ years old, are being illegally detained by their father Syed Aijaz Hussain, the respondent No.4.

2. In pursuance of the order dated 09.09.2019, the Station House Officer, the respondent No.3, has produced both the children before this Court. Both the children are accompanied by their father, the respondent No.4. The petitioner, Ms.Raba Lateef, is also present before the Court.

3. This Court had an occasion to speak to the petitioner, to the respondent No.4, and to Syed Ameera, the five year old child. While the petitioner claims that she has a right to have the custody of both the children, as they are minors, the respondent No.4 claims that due to the differences, which have cropped up between the petitioner and the respondent No.4, the petitioner tends to express her anger towards the children. According to him, on numerous occasions, the children have been hit by the mother. In order to buttress his plea, the respondent No.4 has produced certain photographs. One of the photographs clearly reveals that Syed Ameera, the five year old child, has a burned injury on her left cheek.

4. Of course, the facts narrated by the respondent No.4 have been vigorously denied by the petitioner. According to her, the wound, which is shown in the photograph and the traces of the

wound, which are apparent on the left cheek of the child, are not caused by her, but were caused while the children were fighting with each other. *Prima facie*, the explanation given by the petitioner is unacceptable. For, there is a burned mark on the left cheek of the child.

5. When this Court spoke to Syed Ameera, the five year old child, even she informed this Court that she is frightened of her mother, as her mother tends to assault both the children.

6. However, in order to give a chance to the mother to spend at least some time with the children, this Court permitted the petitioner to meet her children for about two hours in the chamber of the learned Additional Advocate General. Thereafter, this Court asked the family to come back i.e., the petitioner, the respondent No.4 and the two children, as this Court wanted to observe the interaction which would ensue between the two children and the petitioner, the mother.

7. Interestingly, the small child Syed Afnan, the two and half year old boy, did not even want to go to his mother, and kept on clinging to his father, the respondent No.4. Even when the petitioner took the child in her arms, the child kept on wanting to go back to the father.

8. Syed Ameera, on the other hand, was a bit more comfortable with her mother's presence. However, there was a sense of uncomfortableness even in Ameera, while the petitioner hugged her and tried to ask her questions.

9. Looking at the body language of both the small children, this Court is of the opinion that it may not be in the interest of the children to wrench them away from the custody of their father, with whom they appeared to be very comfortable, and whose company they keep on crying for.

10. However, this Court is also aware of the fact that the children cannot be kept away from the mother, as emotional and biological bonds need to be fastened between the mother and the children.

11. Therefore, in order to resolve the conflicting interest of the mother, on the one side, and the children, on the other side, and also keeping in mind the safety of the children, this Court directs that the custody of the children should be with the respondent No.4 from Monday till Friday. On Saturday and Sunday, the respondent No.4 is directed to take both the children to the Barosa Centre, located at HACA Bhavan, Opp: Telangana State Assembly, Hyderabad. The petitioner shall be free to interact with both the children at the Barosa Centre from 10.00 A.M., till 05.00 P.M. At 05.00 P.M., the custody of the children shall be handed over to the respondent No.4. This arrangement shall continue as an interim measure till both the parties file their application before the Family Court for the custody of the children. A copy of this order shall be sent to the Barosa Centre for compliance.

12. With the above directions, this writ petition stands disposed of. It is made abundantly clear that the learned Family Court shall be free to modify the arrangement, uninfluenced by the

findings given by this Court. However, the learned Family Court shall keep in mind the interest of the children as the paramount consideration. There shall be no order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

(RAGHVENDRA SINGH CHAUHAN, CJ)

(A.ABHISHEK REDDY, J)

16th September, 2019

Lrkm

