

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRWP No.4751 of 2020 (O&M)

Date of decision: 13.10.2020

Isha Rani

.....Petitioner

versus

State of Punjab & Ors.

....Respondents

CORAM: Hon'ble Mr. Justice Girish Agnihotri

Present: Mr. Divjyot S. Sandhu, Advocate
for the petitioner.

Mr. Sukhbeer Singh, Asstt. A.G, Punjab.

Mr. Bipan Ghai, Sr. Advocate with
Mr. Paras Talwar, Advocate, for respondent No.4.
*(the aforesaid presence is being recorded through video
conferencing since the proceedings are being conducted in Virtual Court).*

GIRISH AGNIHOTRI, J. (Oral)

The matter has been taken up through video conferencing on
account of restrictions due to outbreak of COVID-19 pandemic.

CRM-W-924-2020

Present application has been filed by the applicant/respondent
No.4 *inter alia* with a prayer to place on record the reply and documents on
behalf of respondent No.4 as Annexures R-1 to R-5.

Application is allowed.

Reply and other documents as Annexures R-1 to R-5 are taken on
record.

Main case

The petitioner-Isha Rani, stated to be aged 33 years, has filed the

present criminal writ petition *inter alia* with a prayer for issuance of a writ, especially in the nature of habeas corpus for seeking custody of minor son Priyansh (date of birth 25.02.2016) aged four years to the petitioner being mother of minor child who has been detained by respondent No.4 against her wishes.

Records of the case show that on 13.07.2020, notice of motion was issued. Thereafter, on 05.08.2020, directions were given to the State, to serve the notice upon respondent No.4. On 7.09.2020, Mr. Dinesh Kumar-respondent No.4 had appeared in person and had sought time to engage counsel.

Today, Mr. Bipan Ghai, Sr. Advocate assisted by Mr. Paras Talwar, Advocate, appears on behalf of respondent No.4.

Learned State counsel, on instructions from Isha Rani-petitioner, submits that it is a matter of fact that petitioner filed a petition under Section 25 of Guardian and Wards Act, for custody of the minor Son in March 2019, which is registered as GW/155/2019. Copy of the said petition is appended as Annexure P1. Learned counsel however submits that inspite the petition having been filed in the year 2019, till date, no significant progress has taken place. He submits that the petitioner had not been able to meet her child and therefore, was constrained to file the present petition.

Reply on behalf of respondent No.4 has been filed. The petition is contested on merits and in the reply, it has been *inter alia* submitted in para 6, that the present petition seeking custody, is just to arm twist the answering respondent into settlement. It is submitted that once the petition under Guardianship Act, has been filed, the present petition is abuse of

process of law.

In view of the peculiar facts and circumstances of the case as noticed above, this Court deems it appropriate to dispose of the criminal writ petition with the following directions:-

- i) The Court under the Guardian and Wards Act, assigned the case GW/155/2019, is directed to take up the matter on 30.10.2020 (the date already fixed) through video conferencing, if the physical Court proceedings are not feasible.
- ii) In the peculiar facts and circumstances of the case, two opportunities each, be granted to the petitioner as well as the respondent No.4 to make their submissions regarding the interim prayer for the custody of the child. It will be appreciated if the proceedings are concluded, expeditiously, maximum within a period of one month i.e. by 30.11.2020.
- iii) Both the parties are directed to co-operate with the proceedings as aforementioned.

With the above observations the present criminal writ petition is disposed of.

(GIRISH AGNIHOTRI)
JUDGE

13.10.2020

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Whether speaking/ reasoned:	Yes/No
Whether Reportable:	Yes/No