

In the High Court of Punjab and Haryana, at Chandigarh

Civil Revision No. 1434 of 2021 (O&M)

Date of Decision: 05.08.2021

Kuldeep Kaur

... Petitioner(s)

Versus

Smt. Gomti and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Ashish K. Gupta, Advocate
for the petitioner(s).

Mr. Dheeraj Mahajan, Advocate
for the caveator/respondent No.1

Anil Kshetarpal, J.

1. The petitioner herein is a grandmother of a two years old child, namely Smairapreet Kaur, born on 02.03.2019. As per the order under challenge, the Guardian Judge, while deciding the application filed under Section 12 of the Guardian and Wards Act, 1890, has granted interim custody of the child to her biological mother. The father of Smairapreet Kaur, who was the son of the petitioner herein, had committed suicide on 27.03.2021.

2. Learned counsel, representing the petitioner, contends that respondent No.1 (natural mother of the child) is facing criminal prosecution under sections 306 and 34 IPC, registered at the behest of the petitioner. The allegations are that her son, namely Baljinder Singh had committed suicide on account of humiliation, insult and beatings at the hands of respondent

No.1. The deceased is said to have left behind a suicide note.

3. Learned counsel representing the petitioner contends that as respondent No.1 is facing criminal prosecution, therefore, the Guardian Judge has erred in giving the custody of the minor child to her.

4. This Bench has considered the submissions, however, finds no substance. It is well settled that before an accused is convicted, he or she is presumed to be innocent. In the suicide note, the allegations are that respondent No.1 used to harass and humiliate her husband for not taking his job seriously.

5. The respondent No.1 is the biological mother and hence, the natural guardian of the child. The law also provides that the custody of a child below the age of five years shall be with the mother as it is the mother only who can provide proper emotional, nutritional and physical support to the child. The girl child, in the present case, is only of two years. At this stage, she needs care from her biological mother. Still further, the Guardian Judge has only passed an order of interim custody. Hence, no ground to interfere in the order is made out and the present petition is dismissed.

6. However, the Guardian Judge is requested to make a sincere effort for expeditious disposal of the main petition.

(Anil Kshetarpal)
Judge

August 05, 2021
“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No