

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.55443 of 2023

Arising Out of PS. Case No.-234 Year-2022 Thana- KAKO District- Jehanabad

Samta Devi, W/O -PINTU Mistry Present Address - R/O Village - Kurthaul,
P.S. - Parsa Bazar, District - Patna Permanent Address - Village - Rasulla, P.S.
- Kako, District - Jehanabad

... .. Petitioner/s

Versus

1. The State Of Bihar
 2. Pintu Mistry S/O - Kailas Mistry R/O Village - Rasulla, P.S. - Kako
- Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Yogesh Chandra Verma- Sr. Advocate Mr. Kamod Kumar Vidyarthi
For the State	:	Mr. Aditya Narayan Singh.1
For Opposite Party No.2	:	Mr. Amaresh Kumar Jha- Advocate

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

3 16-10-2023 1. Heard learned senior counsel for the petitioner,

learned counsel for the opposite party no.2 and learned APP

for the State.

2. The case was mentioned in the morning for taking

it up, out of turn on the ground that on account of matrimonial

dispute in between the petitioner and the opposite party no.2,

the minor child has been sent to Asha Kiran, Child Care

Centre, Patliputra Colony, Patna by the order of the learned

S.D.J.M., Jehanabad. It was further mentioned that the

opposite party no.2, who is the husband, does not have any

objection, in the event, if the child is handed over to the

petitioner, who is his wife. It was also mentioned that both

petitioner and the opposite party no.2 have come to the Court



today, though they were not asked to be present.

3. On mentioning made by the learned senior counsel for the petitioner, the matter was fixed at 03:30 PM to be taken up, out of turn and orally, the Court directed the learned Senior counsel for the petitioner to ensure that petitioner and the opposite party no.2, who were within the Court premises, to remain present before the Court at 3.30 P.M., when the matter would be taken up.

4. The petitioner and the opposite party no.2 are physically present before this Court.

5. The learned senior counsel submits that the present quashing application has been filed for setting aside the order dated 11.07.2023 passed in Cr. Revision No.22 of 2023 by the learned A.D.J.-1st, Jehanabad, whereby the order dated 12.01.2023 passed by the learned S.D.J.M., Jehanabad, rejecting the prayer for the release of the minor, has been affirmed.

6. The learned senior counsel next submits that since the petitioner and the opposite party no.2 have resolved their differences and the opposite party no.2 does not object the handing over of the minor child aged about 11 years to the



petitioner, in that event, instead of going into the merits of the case, the order dated 11.07.2023 passed in Cr. Revision No.22 of 2023 by the learned A.D.J. 1st Jehanabad affirming the order dated 12.01.2023 passed by the learned S.D.J.M., Jehanabad be quashed and a direction be issued.

7. The opposite party no.2, who is also present in the Court, submits that he has no objection in the event, if the child is handed over to the petitioner as the dispute between him and the petitioner has been resolved and they have started staying together.

8. The learned senior counsel, at this stage, submits that petitioner had earlier moved this Court by filing Cr.W.J.C. No.585 of 2023, but the same was dismissed by an order dated 13.04.2023 with liberty to the petitioner to agitate her grievance before an appropriate forum.

9. Considering the submissions made by the learned counsels for the parties and the fact that petitioner and the opposite party no.2 have resolved their dispute and the life of a child is at stake, who is deprived of love of parents, more so, when parents have come together and are leading a peaceful and a happy conjugal life, as such, keeping the child in Care



Home i.e. Asha Kiran, Child Care Centre, Patliputra Colony, Patna would be of no use, when parents are ready and willing to accept the child.

10. Considering the submissions made by the learned counsel for the parties and taking into account, the submission made by the opposite party no.2, who is present in person, the order dated 11.07.2023 passed in Cr. Revision No.22 of 2023 by the learned Additional Sessions Judge-1st, Jehanabad, whereby the order dated 12.01.2023 passed by the learned S.D.J.M., Jehanabad rejecting the release of the child was affirmed, is hereby quashed.

11. The learned S.D.J.M., Jehanabad is directed to ensure that the child is handed over to the petitioner after proper verification to the petitioner.

(Satyavrat Verma, J)

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