

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

112

CR-751-2023 (O&M)

Date of decision: 17.02.2023

Preeti

...Petitioner(s)

Vs.

Amarjeet

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr.Sahil Khunger, Advocate for the petitioner.

NIDHI GUPTA, J.

Present Revision Petition has been filed seeking setting aside of order dated 20.12.2022 passed by learned Additional Principal Judge, Family Court, Sonapat vide which application filed by petitioner-wife under Section 26 of the Hindu Marriage Act, 1955 seeking custody of minor son Prerit has been dismissed.

2. It is inter alia submitted by learned counsel for the petitioner that minor son cannot be deprived of love and affection of mother. It is submitted that the child is only two-and-a-half year old and therefore, requires care and nurturing, that only a mother can provide.

3. No other argument is raised on behalf of the petitioner.

4. I have heard learned counsel for the petitioner.

5. Perusal of impugned order shows that the petitioner is stated to be suffering from seizure disorder with psychosis having risk of DSH (Deliberate Self Harm) and therefore, as per mutual agreement it had

been agreed between the parties that minor son will be kept in custody of respondent and mother of respondent. Learned Court below has further recorded *“This fact is not denied by the applicant/respondent and in fact, when the respondent appeared before the court, her abnormal behavior was also observed by the court. As such, it is clear that the respondent is not in a fit mental or physical state to look after the minor child who is of tender age.”* Accordingly, keeping in mind safety of the minor child, learned Court below had declined to grant custody to the petitioner.

6. I am in concurrence with the view expressed by learned Court below that given the undeniable predilection of the petitioner for deliberate self-harm on her part *“...it would be highly risky and injurious for the minor child if he is ordered to be handed over to the applicant/petitioner. In any case, since the respondent is even unable to take care of herself, she cannot be expected to take care of the minor child...”*.

7. Needless to say, welfare and safe-keeping of the child is the foremost important consideration for this Court. Accordingly, present Revision Petition stands, dismissed.

8. Pending application(s) if any also stand(s) disposed of.

17.02.2023

Sunena

(Nidhi Gupta)
Judge

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No