

#S-19

IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment Delivered On: 12.05.2023

W.P.(CRL) 777/2023

MS PREETI KASANA

..... Petitioner

Versus

THE STATE NCT OF DELHI & ORS.

..... Respondents

Advocates who appeared in this case:

For the Petitioner : Mr. Anil Sharma, Mr. Aman Bhardwaj, Mr. Arpit Sharma and Mr. Aman Sharma, Advocates.

For the Respondents : Mr. Sanjay Lao, Standing Counsel (Criminal) along with Mr. Shivesh Kaushik, Mr. Abhinav Arya and Ms. Priyam Agarwal, Advocates for the State with I.O. S.I. Udai Singh, P.S.: Saket, Delhi.
Mr. Narender Singh Bisht and Mr. Hitesh Kumar, Advocates for R-2 along with Mr. Ravinder Bainsla, R-2 in-person.

CORAM:

HON'BLE MR. JUSTICE SIDDHARTH MRIDUL

HON'BLE MR. JUSTICE TALWANT SINGH

J U D G M E N T

SIDDHARTH MRIDUL, J. (OPEN COURT)

CRL.M.A. 10253/2023 (for direction)

1. The present writ petition under Article 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure 1973 (Cr.P.C), was instituted on behalf of the petitioner, praying as follows:-

“a) Issue an appropriate writ, order or direction in the nature Habeas Corpus to the Respondent No.1 or any other state instrumentalities to immediately trace and produce the minor child before this Hon'ble Court.

b) To Deliver the custody of the minor child to the Petitioner/mother.

c) To pass an order directing the Respondent No.2 and 3 to cooperate for the production of minor child before this Hon'ble court without creating any hindrance.

d) To pass any order/ order(s) thereby as it deems fit and proper to this Hon'ble Court in interest of justice.”

2. The writ petition was disposed of *vide* order dated **22.03.2023**, which is reproduced herein below, with the following directions:

“Mr. Ravinder Bainsla, the estranged husband of Ms. Preeti Kasana, the petitioner herein, has appeared before this Court and stated that their 8 year-old minor daughter, namely, Ms. ‘A’, is currently studying in the IIIrd Standard, at Doon International School, Pari Mahal, 32, Curzon Road, Panchpuri Colony, Dalanwala, Dehradun, Uttrankhand-248001.

The said school is stated to be a boarding school.

Mr. Ravinder Bainsla, undertakes that he shall not cause any let or hindrance, if Ms. Preeti Kasana, the biological mother of Ms. ‘A’, visits the latter, on every 4th Saturday of the month. Ms. Preeti Kasana, also undertakes that she shall not

cause any let or hindrance, if Mr. Ravinder Bainsala, visits Ms. 'A' on every 2nd Saturday of the month – the days on which visitation is permitted by the aforesaid school.

Directed accordingly.

The said undertakings furnished by the parties, are hereby accepted.

The Principal and the authorities of the Doon International School, are directed to permit Ms. Preeti Kasana, to visit her daughter and take her out of the school premises, subject to the rules of admission of the Institution.

In view of the foregoing, learned counsel appearing on behalf of the petitioner, on instructions from the latter, who is present before this Court in-person, does not pray for any other relief.

The interim arrangement arrived at hereinabove, with the consent of the parties, shall continue to operate till the time the same is modified, varied or set-aside by the Court of competent jurisdiction, in an appropriate proceeding, in accordance with law.

With the above directions, the present *habeas corpus* petition is disposed of accordingly.

Needless to state that the parties are at liberty to approach the Court of competent jurisdiction, in relation to the custody/visitation rights of their minor daughter or any other proceeding, as may be considered appropriate, in the facts and circumstances of the case.”

3. Subsequently, respondent No. 2/Mr. Ravinder Bainsla, the father of Ms. 'A', the minor daughter, has instituted an application under Section 482 of the Code of Criminal Procedure (Cr.P.C), 1973, seeking certain directions from this Court, praying as follows:-

“A. Petitioner is directed to handover the daughter to the school boarding authority i. e Doon International School, Dehradun (Uttarakhand) for continuing her study without

any hindrance as She is entitled to get her schooling in a better environment without impacting the matrimonial discord between the parties.

B. Direct the petitioner not to remove the daughter from boarding School Doon International School, Dehradun (Uttarakhand) without the permission of the Hon'ble court of the competent jurisdiction;

C. Pass any order or any further orders in the welfare of the minor daughter in the interest of justice.”

4. This Court has interacted at length in Chambers, on multiple occasions, with the minor daughter Ms. ‘A’, as well as, the estranged couple, pursuant to which interim arrangements were made to facilitate the interaction of Ms. ‘A’ with Mr. Ravinder Bainsla, the respondent No.2.

5. On **09.05.2023**, learned counsel on behalf of the parties, informed this Court that the parties are making an endeavor to reach at an amicable resolution of the dispute that forms the subject matter of the present *habeas corpus* petition; in the paramount interest of the welfare of their minor daughter.

6. Learned counsel appearing on behalf of Ms. Preeti Kasana, the petitioner herein, as well as, Mr. Ravinder Bainsla, the respondent No. 2 herein, on instructions from the latter, who are present before this Court in-person today, state in unison that the parties aforementioned have

entered into a **Memorandum of Understanding (MoU)**, dated **12.05.2023**, a copy of which has been handed over in the Court today.

7. Let the same be taken on the record.

8. A perusal of the said MoU entered into by and between the parties, reflects that, they have mutually agreed with the terms and conditions contained therein, which are also reproduced herein below:-

- “1. That both the parties have agreed that the minor child shall continue studying in the school i.e., Clara Global School, Pune, Maharashtra and shall enjoy the company of both the parents.*
- 2. That both the parties have agreed that the minor child will be in the custody of the first party on Sunday, Monday, Tuesday and Wednesday and second party shall have the custody of the minor child on the Thursday, Friday and Saturday in every week.*
- 3. That both the parties have agreed that first party will hand over the child to second party on every Wednesday at around 8 PM and second party will hand over the child to first party on every Saturday at around 8 PM.*
- 4. That both the parties have also agreed that the minor child can only move out of the city with mutual consent of both the parent, the parent having custody shall inform the other parent about the place, purpose and timeline of such travel.*
- 5. That both the parties have agreed that the minor child shall not be left with anyone apart from the immediate*

family members of both the parents, also no one else shall be allowed to have access over the minor child apart from immediate family members of both the parents.

6. *That both the parties have undertaken that present MOU has been executed with bonafide, considering the welfare of the child as paramount and to provide the minor child a healthy environment where the child gets equal opportunities to spend quality time with both the parents which is essential for the development of the child.*

7. *The above-said statement is arrived at between the parties out of their own free will and free consent and without there being any undue pressure, coercion, influence in any form whatsoever and the parties agreed that the MoU has been correctly recorded as per the agreed terms and conditions and shall abide by the term and conditions of present MoU.”*

9. In view of the foregoing, learned counsel appearing on behalf of Ms. Preeti Kasana, the petitioner herein, does not press this application.

10. The application is dismissed as not pressed and disposed of accordingly.

11. Needless to state that the parties shall remain bound by their reciprocal obligations, as undertaken in the MoU and shall comply with the terms thereof, without demur.

12. No further directions are prayed for.

13. A copy of this judgment be uploaded on the website of this Court
forthwith.

**SIDDHARTH MRIDUL
(JUDGE)**

**TALWANT SINGH
(JUDGE)**

MAY 12, 2023/rs

[Click here to check corrigendum, if any](#)

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