

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Sr. No.127

Case No. : C. R. No.7037 of 2023

Date of Decision : January 24, 2024

Jugraj Singh		Petitioner
vs.		
Prabhjot Kaur		Respondent

CORAM : HON'BLE MR. JUSTICE GURBIR SINGH.

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Present : Mr. Aadish Jain, Advocate
for Mr. Naresh Jain, Advocate
for the petitioner.

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GURBIR SINGH, J. :

1. Challenge in this revision petition filed under Article 227 of the Constitution of India is to the order dated 17.10.2023 (Annexure P-4), passed by learned Additional Principal Judge, Family Court, Camp Court, Baba Bakala Sahib, District Amritsar (hereinafter referred to as – the Family Court), whereby application (Annexure P-2) moved by the petitioner, seeking interim custody of his minor child, has been dismissed.
2. Brief facts, as culled out from the paper book, are that the petitioner solemnized marriage with the respondent in November 2015. Out of the wedlock, a male child was born on 26.08.2016. The petitioner went abroad on 27.04.2022. The minor child was got admitted in a school at Rayya. The allegations against the respondent are that she was having illicit relations with many persons. In the absence of petitioner, the respondent openly continued her illicit relations with one Balbir Singh. When said

Balbir Singh got engaged with a girl, she started blackmailing him and also demanded money from him. Due to this pressure, said Balbir Singh committed suicide on 07.05.2022. Even from the mobile phone of Balbir Singh, through whatsapp, some objectionable photographs of respondent with Balbir Singh were found. Ultimately, when all these things came to the knowledge of the petitioner and his family members, then the respondent admitted her mistake in writing on 03.06.2022 and left the matrimonial home.

3. On 19.08.2022, under a well-planned conspiracy, the father and brother-in-law of the respondent, on the pretext of celebrating birthday of minor child, took away the minor child with them with promise to return the minor child at petitioner's house but they did not come back.

4. Learned counsel for the petitioner has argued that welfare of the minor child is of paramount importance. Petitioner being father of the child, is natural guardian. Since respondent is a lady of bad character and is having illicit extra-marital relations with many persons, the welfare and safety of the minor child is in the custody of the petitioner only. If minor is allowed to remain in the custody of the respondent, then it would have a bad impact on the mind of the minor and he cannot be a good citizen and the same is also not in the welfare of the minor child.

5. I have heard submissions made by learned counsel for the petitioner and perused the case file.

6. The petition for grant of custody of the minor has been filed by the petitioner through his father Tarsem Singh (grandfather of the minor child)

as his 'Power of Attorney'. The learned Family Court has granted visitation

rights to the petitioner as well as liberty to make a video conference call to the child on every Sunday. The relevant extract of the impugned order reads as under :-

“It is not disputed that the minor child Riyanveer Singh is in the custody of his mother respondent. He is aged about seven years. Applicant as well as respondent have a marital discord. Applicant is residing in USA and is seeking custody of minor child. Even though applicant could be having better resources than respondent, but at the same time, it would not be desirable to give the interim custody of the child to applicant as it would amount to depriving mother of the custody of the child, who has been looking after him since June, 2022 i.e. for the last more than one year. So, I do not deem it expedient to allow this application for grant of interim custody of the child. However, to enable applicant to shower his love and affection upon the child, applicant is at liberty to make a video conference call to the child on every Sunday at a time convenient to both the parties and he is also entitled to meet the child personally on his visit on 1st and 3rd Sunday of the month in the Chamber of Para Legal Volunteer at Baba Bakala Sahib from 3 PM to 4:30 PM. Accordingly, this application for grant of interim custody of the child stands disposed of.”

7. There are allegations against the respondent. Bald allegations cannot be taken into consideration to decide the issue of interim custody. The petitioner is free to prove the said allegations by leading evidence. Since a mother cannot be deprived of the custody of the minor child, on the basis of bald allegations, I do not find any error in the impugned order

passed by learned Family Court, which is completely in accordance with law.

8. Accordingly, the present revision petition, being devoid of any merit, is hereby dismissed.

9. Pending applications, if any, shall stand disposed of along with this judgment.

January 24, 2024
monika

(GURBIR SINGH)
JUDGE

Whether speaking/reasoned ?	Yes/No.
Whether reportable ?	Yes/No.