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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% ***Date of decision: 4th March, 2024***

+ **W.P.(CRL) 740/2024**

PARUL GAUR

..... Petitioner

Through: **Mr. Vibhor Verdhan and Ms.
Manisha Mehta, Advocates**

versus

UNION OF INDIA & ORS.

.... Respondents

Through: **Ms. Monika Arora, CGSC with Mr.
Subhrodeep Saha, Mr. Kushal,
Advocates for UOI
SI Saurabh, PS Malviya Nagar in
person**

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

CRL.M.A.6934/2024 (exemption)

1. Allowed, subject to all just exceptions.
2. Application stands disposed of.

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3. The present petition has been filed under Article 226 of the Constitution of India read with Section 482 Cr.P.C. in the form of Habeas Corpus seeking directions to the respondent to produce petitioner's two minor children, i.e. daughter, aged 4 years and son, aged 18 months, and to handover their custody to petitioner, she being their mother.



4. The brief facts of the present case are that on 11.11.2016, the petitioner got married to respondent No.5 according to Hindu rites and ceremonies. Their marriage was duly registered under the provisions of Hindu Marriage Act, 1955 with the Office of learned District Magistrate, Hauz Khas, South District, Delhi.

5. It has been averred in the present petition that on 10.01.2019, respondent No.5 moved to Dubai to work as a Pilot in Emirates Airline. On 27.06.2019, a girl child born out of the said wedlock.

6. In August, 2019, the petitioner along with the girl child started residing with respondent No.5 in Dubai and on 01.08.2022, a male child was born to the parties.

7. However, on 17.02.2024 due to certain matrimonial disputes between the parties, the petitioner left Dubai and came back to Delhi. However, respondent No.5 and his parents did not allow her to bring the children with her. The petitioner also approached Consulate General of India, Dubai, NRI Cell National Commission for Women and Ministry of External Affairs seeking custody of her children but to no avail. Hence, the present petition has been filed.

8. Undisputably, the allegations levelled by the petitioner against respondent No.5 spring out of a matrimonial dispute and the petitioner has already filed a complaint under Protection of Women from Domestic Violence Act, 2005 before the learned Mahila Court which is pending adjudication. The petitioner has also filed an application before said court seeking custody of her children. Thus, the issue of custody of minor children of the parties is already subjudice, who are presently in Dubai with their biological father and natural guardian i.e. respondent No.5.



9. In the light of above, since the issue with regard to custody of the minor children of the parties is already pending adjudication, this Court is not inclined to pass any direction as sought by the petitioner in the present matter which is in the nature of Habeas Corpus. However, in the interest of justice and on the request of petitioner, liberty is granted to the petitioner to approach respondent No.1-Ministry of External Affairs to arrange for a telephonic call for the purpose of finding out that her children are safe and sound.

10. Learned counsel for respondent No.1 has also assured this Court that the respondent No.1 shall render full assistance in this regard.

11. In the light of above, no further orders are required to be passed.

12. With observations as aforesaid, the present writ petition is disposed of.

(SURESH KUMAR KAIT)

JUDGE

(MANOJ JAIN)

JUDGE

MARCH 4, 2024/rk