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* IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 19th December, 2024

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W.P.(CRL) 2244/2024

HARISH VERMA

.....Petitioner

Through: Petitioner in person with both the children.

versus

STATE NCT OF DELHI AND ORS.

.....Respondents

Through: Mr. Sanjay Lao, Standing Counsel (Criminal) for the State with Ms. Priyam Aggarwal and Mr. Abhinav Kr. Arya, Advocates with SI Sanjay Bansal.

Mr. Harsh Prabhakar Advocate for DSLSA with Mr. Adeeb Ahmad and Ms. Eshita Pallava Advocates.
Wife of the Petitioner in person.

CORAM:

JUSTICE PRATHIBA M. SINGH

JUSTICE AMIT SHARMA

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through hybrid mode.

CRL.M.A. 32519/20242. This is an application filed by Ms. Charu Verma/wife of the Petitioner seeking modification of the order dated 14th August, 2024, by which the petition bearing no. **W.P.(Crl.) 2244/2024** titled “**Harish Verma v. State NCT of Delhi & Ors.**” was disposed of with the following directions:*“12. Accordingly, the following interim arrangement shall now be adhered to by the parties:**i. The Petitioner/father would be entitled to bring the children to his home at B-176/A, Gali no. 6, Subhash*



Vihar, North Ghonda in Delhi twice a month for two nights. The same would be not obstructed or objected to in any manner by the wife of the Petitioner or by any of her family members. There shall be no misbehaviour with the husband, i.e., the Petitioner when he travels to Saharanpur, Uttar Pradesh to her house. The wife's current address as stated by her is hereinunder:

Address: Ganesh Vihar, Rameswar Dhaam, Lane No.5

Mobile No. 9897853631

Mobile No. 8755740099

If there is any change of her residential address or her mobile number, she shall intimate the same to the Petitioner.

ii. The Petitioner is also permitted to meet the children in Saharanpur, Uttar Pradesh itself on other occasions, if he so wishes.

iii. Neither of the parents shall take the children outside India. The Petitioner/father shall not take the children out anywhere else apart from the jurisdiction of NCT Delhi and back to Saharanpur, Uttar Pradesh.

iv. The onus of the safety and security of the children when the father/Petitioner brings them with him, would be on the father.

13. This interim arrangement shall continue until any further orders are passed by the competent Court, which shall look into all the allegations raised in the present petition and pass orders in accordance with law.

14. The Petitioner also prays for custody of the children. For the said purpose, the Petitioner may avail of his remedies in accordance with law from the concerned Guardianship Court.

15. Considering the various allegations levelled, it is directed that both the Petitioner as also his wife, shall not write/post anything on social media against each other, their families as also their children.

16. The wife of the Petitioner- Ms. Charu Verma is permitted to collect all her belongings from the husband/Petitioner's house today itself. She shall be



accompanied by the concerned IO for the aforesaid purpose to the husband's residence. The father/Petitioner shall continue to pay the school fees which he has confirmed that he has no objection to do, for both the children.

17. The petition is disposed of. All pending applications are disposed of."

3. The writ petition bearing no. **W.P.(Crl.) 2244/2024**, filed on behalf of the Petitioner-Harish Verma under Article 226 of the Constitution of India read with Section 482 of the Cr.P.C. sought issuance of a writ of *Habeas Corpus* for production of his wife and children, who are stated to be missing from his house since 14th May, 2024.

4. On 8th August, 2024, Ms. Charu Verma-wife of the Petitioner had appeared in Court along with her father for an in-Chamber interaction where she stated that she had been subjected to ill treatment by her husband, and therefore, she left her matrimonial home. She was residing in Saharanpur, Uttar Pradesh in her parental home. Ms. Charu further stated that she has two children aged about 11 years and 6 years from the wedlock with the Petitioner and both the children are in her custody. They are studying in a school in Saharanpur, Uttar Pradesh.

5. The Petitioner had relied upon a settlement agreement dated 19th March, 2024, by which the disputes between the parties were resolved. Pursuant to the said settlement, earlier matrimonial disputes between the parties had been closed and she had started living with the Petitioner. However, she went back to her parental home on 14th May, 2024, which had thereafter resulted in the above mentioned petition.

6. The Petitioner's case was that his wife has not allowed the Petitioner to



meet the children.

7. On 14th August, 2024, the above stated petition was disposed of with an interim arrangement with respect to the custody of the children, made between the parties. The same reads as under:

“12. Accordingly, the following interim arrangement shall now be adhered to by the parties:

i. The Petitioner/father would be entitled to bring the children to his home at B-176/A, Gali no. 6, Subhash Vihar, North Ghonda in Delhi twice a month for two nights. The same would be not obstructed or objected to in any manner by the wife of the Petitioner or by any of her family members. There shall be no misbehaviour with the husband, i.e., the Petitioner when he travels to Saharanpur, Uttar Pradesh to her house. The wife’s current address as stated by her is hereinunder:

Address: Ganesh Vihar, Rameswar Dhaam, Lane No.5

Mobile No. 9897853631

Mobile No. 8755740099

If there is any change of her residential address or her mobile number, she shall intimate the same to the Petitioner.

ii. The Petitioner is also permitted to meet the children in Saharanpur, Uttar Pradesh itself on other occasions, if he so wishes.

iii. Neither of the parents shall take the children outside India. The Petitioner/father shall not take the children out anywhere else apart from the jurisdiction of NCT Delhi and back to Saharanpur, Uttar Pradesh.

iv. The onus of the safety and security of the children when the father/Petitioner brings them with him, would be on the father.”

8. On 25th October, 2024, the wife filed an application stating that on 21st September, 2024 the Petitioner took both the children with him and had not returned the children to their mother, thereby being in violation of the order



dated 14th August, 2024. In view thereof, the Court issued notice to the Petitioner. The relevant portion of the said order is extracted hereinbelow:

“5. It is stated that the Petitioner on 21st September, 2024, took both the children with him for two nights and hasn’t returned them to the Applicant till date.

6. Issue court notice to Petitioner as well as through his counsel, to be served through the SHO concerned for the next date of hearing.”

9. Thereafter, on 28th October, 2024, the Court interacted with the children in Chamber to ascertain their well-being in the custody of their father and directed that the matter be referred to Ms. Veena Ralli for interaction with the children and feedback. As per the feedback the father’s house consists of the family members being, the grandfather (*dada*) of the children and their uncle (*chacha*). There is no female member in the family as the mother of the Petitioner is stated to have passed away. However, the children did not wish to go back to Saharanpur. Therefore, in order to monitor the situation, the Court gave certain directions. The directions are produced hereinbelow:

8. In any event, since the children are now admitted in a school in Delhi, the Court is not inclined to again remove them from the school and send them back to Saharanpur. However, some monitoring is required in this case. In view thereof, the following directions are issued.

(i) The children shall remain with the Petitioner/father and shall attend the school on all working days

(ii) During the diwali break, the children shall remain with their father in his house and on the weekend i.e. on 15th November, 2024, the father shall drop the children to Saharanpur, UP in the evening.



(iii) On 18th November, 2024 the children shall be produced by the mother i.e. the Petitioner's wife, before the Court.

(iv) On the next date of hearing, the father and brother of the Petitioner shall remain present before the Court.

(v) The mother of the children shall get the ultrasound of the son, Master 'S' done and bring the report of the same on the next date of bearing.

(vi) The Petitioner/father shall show his financial capacity to bring up both the children, on the next date of hearing.

(vii) The Delhi State Legal Services Authority ('DSLISA') shall nominate a female Support Person, who shall make surprise visits (at least 3-4 times) to the residence of the Petitioner at the following address on different times of the day as also on holidays and submit a report on the next date of hearing as to the living condition and well-being of the children.

***B-176/A, Gali No.6, Subhash Vihar,
North Ghonda, Delhi-110053.***

10. In view of the above stated terms, on the last date of hearing i.e., 5th December, 2024, the Court noticed that the children were not allowed to spend the weekend with their mother in Saharanpur, Uttar Pradesh, after the Diwali break. Various justifications were given by the Petitioner regarding his non-compliance with the aforesaid directions. It was further observed that the Petitioner has repeatedly violated the orders passed by this Court and this is not the first occasion. Thereafter, a notice was issued to the Petitioner and an affidavit was directed to be filed as to why contempt action ought not to be taken.

11. The children were also permitted to accompany the mother on the said date as suggested by Ms. Ruchir Mishra, support person appointed by the North East District Legal Services Authority, who submitted a detailed report



dated 11th November, 2024 along with photographs of the house and the place where the children are living along with the Petitioner/Father describing the condition of house and the food being provided. After perusing the report filed by the support person as also the non-compliance of previous orders, the following arrangement was directed on 5th December 2024:

“9. This Court has interacted with the parties and the children in the Chamber.

10. It is seen that the children are quite attached to the mother.

11. In view of the fact that they seem to require motherly care, as suggested by Ms. Mishra - Support Person, the children are permitted to accompany the mother today.

12. The Petitioner is permitted to pick up the children on Sunday i.e., 8th December, 2024 at 03:00 P.M from Saharanpur, Uttar Pradesh.

13. The Petitioner has assured this Court that he would enable the children to be in continuous touch with the mother through video conferencing or telephonic calls on a daily basis.”

12. The arrangement which was made by this Court on the last date of hearing *vide* order dated 5th December, 2024 has been adhered to by the parties.

13. Today, the Court has interacted with both the mother, Petitioner/father and the two children. The children have expressed that they would like to continue their schooling in Delhi while living with the Petitioner/father. However, they wish to be in continuous touch with the mother as well.

14. In view of the above, with the consent of the parties, the previous arrangement dated 14th August, 2024, is being modified in the following terms: -



- (i) The children shall continue to remain with the Petitioner and attend school in Delhi itself;
- (ii) The Petitioner is presently living with his father, brother and grandmother. The support person's report dated 11th November, 2024 has been perused, as per which, certain improvements need to be made in the living conditions in the Petitioner's residence. Accordingly, the Petitioner has assured this Court that he will engage a proper cook and a domestic help to keep the house in a clean and in much more hygienic living conditions as also to cook and provide food to the children;
- (iii) The children would visit the mother for a period of 3 days every fortnight. For the said purpose, the mother can pick up the children from school/home of the Petitioner at around 03:00 p.m., and the children can stay with her from Friday onwards, and then, they can be picked up by the Petitioner on Sunday at around 03:00 p.m so that they can attend school on Monday;
- (iv) If there are any holidays, the Petitioner would not object to the children being picked up by the wife and they can stay in Saharanpur even for a longer period;
- (v) Insofar as the vacation time is concerned, the mother would be entitled to keep the children for at least half the vacation time, including festival holidays. This would not be objected to by the Petitioner and he shall cooperate;
- (vi) The Petitioner has also assured this Court, that on a daily basis, even if he is not present in the house, the children would be free to talk to the mother whenever they wish to and for the said purpose, the Petitioner's father (*Dada ji*) would make available a mobile phone and



WhatsApp facility to the children;

(vii) The Petitioner shall also give the mother's number in the school so that her number can be added in the school groups and she can also be duly intimated of any academic reports, activities, etc of her children.

15. This Court had also issued notice for contempt on the last date of hearing due to non-compliance of the orders and directions which were passed in earlier orders.

16. In view of the aforesaid directions passed today and in view of the subsequent events which have transpired, the notice is discharged with a warning to the Petitioner to adhere to the directions given by this Court, subject to payment of Rs. 25,000/- to the wife. The same shall be paid in installments of Rs. 5,000/- each by 31st January, 2025.

17. Let today's order be placed before the Id. Single Judge before whom **CONT.CAS.(C)1628/2024** is pending for appropriate orders.

18. With the aforesaid directions the present application is disposed of.

PRATHIBA M. SINGH
JUDGE

AMIT SHARMA
JUDGE

DECEMBER 19, 2024/sn/ks

(corrected & released on 24th December, 2024)