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

+ **CONT.CAS(C) 1198/2024**

NEHA BHATI

.....Petitioner

Through: Mr. Rakesh Chander Aggarwal,
Adv. with petitioner present
through VC

versus

VIKAS BHATI & ANR.

.....Respondent

Through: Ms. Neha Kapoor, Adv. with
respondent present through VC

CORAM:

HON'BLE MR. JUSTICE DHARMESH SHARMA

ORDER

13.08.2024

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1. The petitioner-wife/mother is seeking initiation of contempt proceedings against the respondent-husband/father for wilful disobedience of the directions passed by the Division Bench of this Court in W.P.(CRL) 2104/2024 dated 15.07.2024.

2. It is borne out from the record that the learned Judges of the Division Bench had an interaction with the parents as well as the child who is referred by the pseudonym Master 'A' and the following directions were passed:-

“7.Master 'A', has informed the Court that he prefers to study in Cambridge International School. Master A's father has thus agreed to relocate as quickly as possible to a premises which is nearby to the school where they used to earlier live in Khanpur.

8. It is also agreed between the parties that twice a month, on any holiday or Sunday, Master 'A' would go and visit his mother and stay with the maternal grandparents at RZ-40, Gali No. 7, Sitapuri, New Delhi-45. This arrangement is acceptable to the father as also to Master 'A'. Further, if the mother wishes to take her son, Master 'A' for an outing, she would inform the father of Master 'A' so as



to make him aware where she is taking the son. The father can then be in the vicinity.

9. Considering the wishes expressed by Master 'A', Cambridge International School is directed to render all cooperation to re-admit the child in the school in 9th Standard and if there are any tests or other assignments that he has missed, they would give him an opportunity to complete the same and also appear in any re-test, considering the unique facts.

10. The father and the mother of Master 'A' shall be included in all the school groups. The mother has assured the Court that she would not communicate with any of the teachers of Master 'A' with regard to any issues relating to the family as she admits that one of the teachers is her friend. No audio or video recording, or any such communication relating to the family shall be communicated to or shared with the teachers so as to ensure that the child's comfort is not disturbed in the school in any manner."

3. The petitioner-wife/mother now approaches this Court for the non-compliance of the aforesaid directions on the part of the respondent-husband/father.

4. When the matter came up before this Court for hearing on 07.08.2024, the Court directed the child Master 'A' to be produced through Video Conferencing (VC) for interaction.

5. This Court has had an interaction with the child today, through VC. It was ensured that the child is alone in the room from which he is connecting through VC with this Court.

6. There is a complete turn around on the part of the child, who now expresses that he is more comfortable in studying in his new school, particularly since he is now in the company of his cousins from the larger family of his father. During the interaction with this Court, the child stated that he is not very comfortable meeting with his mother as she used to beat him on trivial issues. Although the child appears to be quite intelligent and was giving rational responses to the queries put forth by this Court, the possibility that the child has been tutored cannot



be ruled out.

7. After the interaction of the child concluded, this Court had an occasion to hear the parties as well as their respective counsels.

8. Evidently, the child has been taken away by the respondent-husband/father, who has relocated himself along with the child to Faridabad, since May 2024.

9. The bottom line is that the issue regarding the well-being, care and education, including the custody of the child, should now be decided by the competent Guardian Court, given that the present contempt proceedings arise from a habeas corpus petition filed by the petitioner, it would not be appropriate to proceed any further.

10. After some arguments, learned counsel for the petitioner requests permission to withdraw the present contempt petition with liberty to move an appropriate application/petition seeking custody of the child before the competent Guardian Court at Delhi.

11. Although, the learned counsel for the respondent-husband/father has urged that since the child was relocated to Faridabad, State of Haryana and as per Section 9 of the Guardian and Wards Act, 1890 that would confer the jurisdiction upon the competent Guardian Court at Faridabad, this Court is not impressed by the submission. The child has being born and brought up in Delhi and has been studying in the school at Delhi, residing with both his parents, before having been relocated to Faridabad in May 2024.

12. Anyhow without delving into the merits of the case, the



present contempt petition is allowed to be dismissed as withdrawn with liberty to the petitioner to move an appropriate application/petition before the competent Guardian Court and seek appropriate reliefs in accordance with law.

13. This order is passed without prejudice to the rights and contentions of the parties.

DHARMESH SHARMA, J.

AUGUST 13, 2024/sa