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

+ **W.P.(CRL) 3858/2024**

KAMRAN FAROOQUI

.....Petitioner

Through: Mr. Mohsin Sarwar and Ms. Ghazala Hashmi, Advocates with Petitioner in person. (M: 9911488629)

versus

THE STATE GOVT OF NCT OF DELHI & ORS. & ORS.

.....Respondents

Through: Mr. Sanjay Lao, Standing Counsel (Crl.) for the State with Ms. Priyam Aggarwal, Advocate.
SI Satish Bhati, P.S. Sarita Vihar.
The child alongwith her maternal grandmother.

CORAM:

JUSTICE PRATHIBA M. SINGH

JUSTICE AMIT SHARMA

ORDER

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18.12.2024

1. This hearing has been done through hybrid mode.
2. The present writ petition has been filed on behalf of the Petitioner- Kamran Farooqui under Article 226 of the Constitution of India read with Section 528 of the BNSS seeking issuance of a writ of *Habeas Corpus* for the production of his daughter, who is stated to be 7 years old.
3. A brief background of the present case as stated in the petition is that the Petitioner was married to Respondent No. 6- Sayma on 1st November, 2013 according to Muslim Rites and Customs. A daughter was born from the said wedlock on 1st March, 2017. However, due to matrimonial discord, the marriage between the Petitioner and Respondent No. 6 was dissolved vide a



Mutual Divorce Deed dated 8th February, 2018. Further, it is stated that the Petitioner and Respondent No. 6 entered into a settlement vide a settlement deed dated 15th March, 2021 as per which, the custody of the daughter would be with the Petitioner.

4. It is the case of the Petitioner that on 22nd January, 2024 the maternal grandmother-Respondent No.5 of his daughter took custody of the child and the Petitioner has not met the child since then. According to the Petitioner, the child was initially taken by Respondent. No. 5 to her residence at C-27, Berang Road, Kamla Nagar, Delhi but was later shifted to Mejure Nag Chinar Colony, Nattipura, Srinagar, Jammu & Kashmir.

5. On the last date of hearing *i.e.* 18th December, 2024 it was directed that the child be produced in Court along with the Respondent No. 5. The relevant portion of the order dated 18th December, 2024 is extracted hereinunder:

“9. Considering the nature of the allegations, which are raised in the present petition and the fact that the interaction with the child is necessary, it is directed that the child shall be produced before the Court along with Respondent No.5- the maternal grandmother on the next date of hearing.

10. The concerned DCP from the Delhi Police shall coordinate with the Senior Superintendent of Police, Srinagar (hereinafter 'SSP, Srinagar') for enabling the production of the child before this Court on the next date of hearing. All cooperation shall be rendered by the SSP, Srinagar to the Delhi Police for production of the child before the Court. The police team accompanying the child shall consist of at least two lady constables.

11. The present order shall be communicated today itself to the SSP, Srinagar Mr. Imtiyaz Hussain Mir (Phone No:9419009457, 0194-2455047; Email:- dposrinagar@ikpolice.gov.in) and DCP South-East Delhi (Phone No: 9818099053, 011-26825544; Email:-



dcp.sc@delhipolice.gov.in) for necessary information and compliance. Let the child be produced on the next date of hearing.

12. List on 18th December, 2024.”

6. Today, the child has been produced along with the maternal grandmother-Respondent No.5. The Court has had an in-chamber interaction with the Petitioner, the child and Respondent No. 5. The facts which have emerged after the chamber interaction are that the child has hardly been in custody of the father, contrary to what has been stated in the present petition.

7. As per the petition, the Petitioner had been given custody of the child on the date of settlement, *i.e.*, 15th March, 2021. The maternal grandmother had taken the child from his custody on 21st January, 2024. Considering these facts, a pointed query was made to the Petitioner from the Court, as to where the child was studying for those three years. To this, the Petitioner admitted that he had custody of the child for only a couple of months and that the child was staying with his brother and not with him during that period.

8. From the interaction it is clear that the child is attached to the maternal grandmother. Her biological mother has now re-married within the family and they also live next to the *Naani's* house. In fact, both the biological parents have re-married and they have children from their second marriage as well. The child addresses the *Naani* as '*mumma*' and she is going to school in Srinagar. The child would need some time to become comfortable with the Petitioner and for the said purposes the Petitioner would be required to build a relationship with the child as he has not spent much time with her.

9. In these circumstances, after having met with the child, this Court is not inclined to direct custody of the child to be given to the Petitioner. However,



the *Naani*-Respondent No. 5 has assured the Court that if and when the Petitioner wishes to meet the child either in Srinagar or Delhi, she would have no objection. In addition, she also assures that she would slowly create familiarity between the Petitioner and the child and keep them in touch on a regular basis through audio calls and video calls.

10. In the overall interest of the child, this Court is of the opinion that the child shall continue to remain with the grandmother i.e. Respondent No. 5. If the Petitioner wishes to seek custody of the child, he may avail his remedies in accordance with law.

11. With the aforesaid directions, the petition stands disposed of.

PRATHIBA M. SINGH, J.

AMIT SHARMA, J.

DECEMBER 18, 2024/bsr/rks