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

+ **W.P.(CRL) 3920/2024 & CRL.M.A. 37878/2024**

GULSHAN SAINI

.....Petitioner

Through: Mr. Lalit Kumar, Ms. Kanishka Gaur,
Mr. Prashant Sharma, Advs. with
Petitioner in Person. (M: 8178389964)

versus

STATE OF NCT OF DELHI & ANR.Respondents

Through: Mr. Sanjay Lao, Standing Counsel
(Criminal) with Ms. Priyam Agarwal
& Mr. Abinav Kumar Arya, Advs.
with Insp. Sunil Kumar PS Jaitpur.

CORAM:

JUSTICE PRATHIBA M. SINGH

JUSTICE AMIT SHARMA

ORDER

% **17.12.2024**

1. This hearing has been done through hybrid mode.

CRL.M.A. 37878/2024 (for exemption)

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

W.P.(CRL) 3920/2024

3. The present petition under Article 226 of the Constitution of India read with Section 528 of the Bharatiya Nagarika Suraksha Sanhita, 2023 has been filed by the Petitioner – Mr. Gulshan Saini seeking issuance of a writ in the nature of *habeas corpus* for the production of his daughter, Ms. A, who was born on 26th October, 2014.

4. A brief background of the case as stated in the petition is that the Petitioner and Respondent No. 2 were married on 23rd January, 2014 in accordance with Hindu rites and rituals. Out of the said wedlock, a daughter



was born on 26th October, 2014. However, thereafter, the couple had various issues pertaining to their marriage and due to matrimonial discord, the Respondent No. 2 left the matrimonial home and moved to Bulandshahr, UP where her parental home was.

5. It is stated that the dispute between the Petitioner and his ex-wife/Respondent No.2 was earlier resolved *vide* settlement dated 5th January, 2019. Further, as per the judgment dated 11th November, 2020 in Matrimonial Suit No. 1021/2019, passed by learned Additional Principal Judge, Family Court, Bulandshahr, the marriage between the Petitioner and the Respondent No. 2 stood dissolved and the custody of their daughter, Ms. A, was given to the ex-wife/Respondent No. 2 on the basis of the statement made by the present Petitioner in the said Matrimonial Suit. However, the ex-wife/Respondent No. 2 has now remarried and is also blessed with another child.

6. According to the Petitioner, the girl child, Ms. A, born from the wedlock of the Petitioner and Respondent No. 2 is not being properly looked after. Being the biological father, the present *habeas corpus* petition has been filed seeking production of his daughter.

7. A status report dated 17th December, 2024 has been handed over by Mr. Sanjay Lao, Id. Standing Counsel, as per which the police has enquired into the matter and has ascertained that the child, Ms. A, is now studying in M.D. Shiksha Sadan High School, Garhi Bala, Sonapat, Haryana. Her ID card has also been produced and she is studying in 4th class. The concerned Investigating Officer had also spoken to the girl, Ms. A, who has stated that she is happy with her mother/Respondent No. 2.

8. Admittedly, the Petitioner's child had been living with the mother in



Sonepat, which is outside the jurisdiction of this Court. The daughter is also studying in Sonepat and residing with her mother. Under these circumstances, the present *habeas corpus* petition is dismissed as the same is not maintainable before this Court.

9. The Petitioner is free to avail of his remedies in accordance with law.

10. The present petition is disposed of as not maintainable along with all pending applications, if any.

PRATHIBA M. SINGH, J.

AMIT SHARMA, J.

DECEMBER 17, 2024/dk/rks