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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CR-3957-2024

Date of decision: 20.01.2025

Anshu Pratap Singh

...Petitioner

Versus

Rajni alias Richa

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Mahir Sood, Advocate and
Mr. Gaurav Chhonkar, Advocate for the petitioner.

Mr. Yash Dev Kaushik, Advocate for the respondent.

VIKAS BAHL, J. (ORAL)

1. This is a revision petition filed under Article 227 of the Constitution of India for setting aside the impugned order dated 09.07.2024 (Annexure P-8) passed by the Additional Principal Judge, Family Court, District Faridabad, whereby the custody of the younger son has been handed over to the respondent.

2. On 17.07.2024, a Coordinate Bench of this Court was pleased to pass the following order:-

“Present: Mr. Mahir Sood, Advocate for the petitioner.

By way of the impugned order dated 09.07.2024 (Annexure P.8), the learned Additional Principal Judge, Family Court, District Faridabad, has ordered the interim custody of



one of the children, namely, Charvik Pratap Singh aged approximately 3 years to the respondent- wife. The said order is challenged by the petitioner- husband.

Learned counsel contends that both the children, namely, Master Devang Pratap Singh and Charvik Pratap Singh were in the custody of the petitioner since beginning. The respondent- wife had separated on 19.02.2023 and had started living adulterous life. It is the petitioner who had filed the petition seeking permanent custody of the two children. The respondent- wife had never made any effort to seek the custody of the children. It is during the petition filed by the petitioner that she moved an application dated 29.01.2024 (Annexure P.6), seeking the visitation rights to meet the children, though it is also mentioned that interim custody be also handed over to her. Learned counsel contends that although paramount consideration is welfare of the children but having regard to the circumstances of the case and the fact that children are residing with the petitioner since beginning and the respondent- wife has never taken any interest to take care of them, the impugned order is liable to be set aside.

Perusal of the relief sought by the respondent- wife vide application Annexure P.6 prima-facie reveal the vagueness therein, inasmuch as in first prayer, she is seeking visitation rights and then claims that she be handed over the custody of the minor children.

Notice of motion for 04.12.2024.

Till the next date of hearing, operation of the impugned order shall remain stayed.

July 17, 2024”

3. On 15.01.2025, this Court had passed the following order:-

“Learned counsel for the petitioner prays for an adjournment to show as to how the present revision petition is



*maintainable in view of the law laid down by the Full Bench of Delhi High Court in the judgment reported as **2024(4) RCR(Civil) 657** titled as “**Dr. Geetanjali Aggarwal Vs. Dr. Manoj Aggarwal**”.*

Adjourned to 20.01.2025.

To be taken up in the urgent list.

15.01.2025”

4. Learned counsel for the petitioner has submitted that the impugned order in the present case was passed on 09.07.2024 whereas the judgment of the Full Bench is dated 16.10.2024 and thus, the petitioner had filed the present revision petition. It has been very fairly submitted by learned counsel for the petitioner that although there is a prior judgment of the Delhi High Court holding that an appeal is maintainable but since the said matter had been referred to the Larger Bench and the judgment of the Larger Bench came on 16.10.2024 thus, at that stage, the revision petition was filed. It is submitted that as per the settled law, now an appeal is maintainable against the impugned order and has thus, submitted that the petitioner be permitted to withdraw the present revision petition with liberty to file the said appeal in accordance with law. It has been prayed that since the interim order was passed in favour of the petitioner by the Coordinate Bench on 17.07.2024, thus, the said interim order be continued for a period of 10 days so as to enable the petitioner to file the said appeal.

5. Learned counsel for the respondent has submitted that in case the said order dated 17.07.2024 is continued for a period of 10 days, then the same should not be construed as an expression of opinion on merits of the case and liberty be granted to the respondent to raise all the pleas before the



Appellate Court so as to oppose the main appeal as well as the stay application.

6. Keeping in view the abovesaid facts and circumstances and the fair stand taken by learned counsel for the petitioner as well as by learned counsel for the respondent, the present revision petition is dismissed as withdraw with liberty to the petitioner to file a statutory appeal in accordance with law and interim order dated 17.07.2024 is ordered to be continued for a period of 10 days, however, passing of the said order should not be construed as an expression of opinion on the merits of the case. It would be open to both the parties to raise all the pleas in support of and against the appeal as well as in support of and against the application for stay. It is further clarified that this Court has not opined on the merits of the case and it would be open to both the parties to raise all the pleas, in accordance with law.

20.01.2025

Pawan

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No