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

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CRWP-5847-2025 (O&M)
Date of decision: 15.07.2025

Meghna Rana**...Petitioner****Versus****State of Haryana and others****...Respondents****CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present:- Mr. Ashwani Talwar, Advocate and
Mr. Lalit Narang, Advocate
for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana.

Ms. Preeti Manderna, Advocate
for respondent No. 4.

MANISHA BATRA, J. (Oral)

1. Prayer in this petition, filed under Article 226 of the Constitution of India, is for issuing a writ in the nature of Habeas Corpus directing the official respondents to recover the minor son of the petitioner, namely Arhrava Kumar Singh, who has illegally been detained by respondent No. 4.

2. Vide order dated 29.05.2025, passed by this Court, respondent No. 3 - SHO, Police Station Sector 20, Panchkula was directed to produce respondent No. 4 along with the alleged detainee before this Court. In compliance thereof, the minor child was produced before this Court on 04.06.2025 and since he wanted to stay with his mother (petitioner), his custody was given to the petitioner.

3. On the last date i.e. 14.07.2025, the minor child was present in Court and he had interacted with his father/respondent No. 4 as well as with

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the Ms. Garima, Counsellor. This Court had also interacted with the child in the chamber of this Court. What transpired from all this was that the child was willing to stay with his mother only.

4. It would be apposite to mention here that previously, respondent No. 4-Arun Kumar Singh had filed a petition bearing number CRWP-8059-2024 before this Court seeking issuance of a writ in the nature habeas corpus for release of the minor child from the custody of his mother and grandparents. The said petition was dismissed by this Court by passing a detailed order on 11.11.2024. The operative part of the said order reads as under:

8. In the present case, there is no dispute about the fact that respondent No. 2 is the biological mother of alleged detainee, who was born out of the wedlock of the petitioner and respondent No. 2. Hence, it cannot be stated that his custody with respondent No. 2 is illegal in any manner. There is nothing on record to show that before the event of respondent No. 2 coming to India along with the child on 30.04.2021, the petitioner had filed any appropriate petition before the jurisdictional Court at USA seeking custody of the minor child and was either given his custody or was given some visitation rights, so that it can be stated that by separating the child from the petitioner or denying his visitation rights, respondent No. 2 has defied the said order. Although, the petitioner has placed on record a copy of order dated 25.07.2023 showing that the jurisdictional Court at Florida had given him the sole parental responsibility of the child but it is not disputed that the said order was passed *ex-parte*, that too in the absence of respondent No. 2 as she had been residing in India since April, 2021. So far as the principles of comity

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of Courts are concerned, obviously the Courts in one jurisdiction should honour and enforce judicial decisions or laws of another jurisdiction, provided such actions do not violate public policy or sovereignty. This concept is grounded in international and inter-jurisdictional cooperation, ensuring that Courts give deference to the rulings of foreign or external Courts when appropriate. However, at the same time, when an *ex-parte* order is passed by a foreign Court, the Court in another jurisdiction needs to be more careful and should scrutinize if the same meets certain criteria, such as fairness, due process and opportunity of hearing to both the parties. More so, the order dated 25.07.2023 can be executed only when respondent No.2 goes back to USA along with the child. However, no such direction can be issued to respondent No. 2, being an adult. This Court had even an interaction with the child in the retiring room and found him to be too tender in age and totally immature to be able to form any independent opinion of his own as to which parent he should stay with. So far as the ratio of law laid down in the judgments relied upon by the petitioner is concerned, the same is not disputed at all. However, the same is not applicable to the peculiar facts and circumstances of the present case as in those cases, it was held that a writ of habeas corpus can be issued when the child has been taken away by one of the natural guardians by playing a fraud upon the another or the child was detained by either of the parents illegally and without any authority of law, which is not so in the present case. Hence, in the totality of the facts and circumstances, it is held that no direction can be issued to private respondents to hand over the custody of the child to the petitioner.

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9. In view of the discussion as made above and without making any comment on the allegations and counter allegations made by the parties against each other, this Court is of the view that no case has been made out by the petitioner to issue any direction to the private respondents for handing over the custody of the child to the petitioner. Accordingly, the present is dismissed, being devoid of any merit.

10. However, liberty is granted to the petitioner to avail his alternative remedy in accordance with law, if so advised.

5. Respondent No. 4 had challenged the abovementioned order by filing a Writ Petition (Criminal) bearing No. 12 of 2025 before the Hon'ble Supreme Court. However, the said petition had been dismissed, vide order dated 15.01.2025, thereby upholding the aforesaid order passed by this Court. It was in this backdrop that respondent No. 4 has strategically and forcefully taken over the custody of the child on 28.05.2025 as soon as he got down from his school bus and now he is claiming that since he is natural guardian of the child, the custody of the child cannot be held illegal with him. The said conduct of respondent No. 4 is in complete disregard to the order passed by this Court, wherein it was directed that the custody of the child shall remain with the petitioner/mother till the time the appropriate forum finally decides the issue of permanent custody of the child. In view thereof, this Court has no hesitation to say that the act of respondent No. 4 is not only in defiance of the orders passed by this Court as well as Hon'ble Supreme Court but the same is also contemptuous.

6. In view of the aforesaid facts and circumstances, the present petition is allowed. The custody of the minor child is handed over to the

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petitioner, who is natural guardian/mother of the child. However, it shall be open for the parties to move a petition seeking permanent custody of the child before appropriate forum.

15.07.2025

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No