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

+ **W.P.(CRL) 106/2025**

POOJA DEVI

.....Petitioner

Through: Mr. Mohit Mudgal, Ms. Harshita, Ms.
Aparmitia Pratap and Ms. Pooja
Malhotra, Advs.

versus

STATE OF NCT OF DELHI & ANR.

.....Respondents

Through: Mr. Sanjay Lao, SC with Mr. Priyam
Aggarwal with SI Suresh Kumar
Meena & ASI Ram Mehar PS Usman
Pur.

CORAM:

JUSTICE PRATHIBA M. SINGH

JUSTICE DHARMESH SHARMA

ORDER

% **03.02.2025**

1. This hearing has been done through hybrid mode.
2. This is a petition under Article 226 of the Constitution of India read with Section 528 of BNSS filed by the Petitioner-Smt. Pooja Devi seeking issuance of a writ in the nature of *habeas corpus* for production of her three minor children, who are in the custody of her husband-Devan Kumar Sahu.
3. The case of the Petitioner is that the three children have been left in Muzzaffarpur, Bihar, with the in-laws of the Petitioner. The children are stated to be living in a joint family of the husband in the absence of both parents since the parents are living and working in Delhi.
4. It is alleged in the petition that the three children are not going to school and the Petitioner is concerned about the education of the children. Certain



records have been placed on record in support of this allegation.

5. On the last date of hearing *i.e.*, 15th January, 2025, both the Petitioner-wife and the Respondent No.2-husband were present in Court and the Court had an in-chamber interaction with them. The husband then submitted that the children are in Bihar and they live with the grandparents and his brother, bhabhi and the nephews and nieces in a larger joint family. The husband has also sought divorce in Muzzaffarpur and the Petitioner has filed a domestic violence complaint and a custody petition, which are stated to be pending in Delhi.

6. The Court on the said date also tried interacting with the children through video calling, however the same was not possible due to internet connectivity issues. After considering the above stated allegations made by the wife, the Court directed the three children to be produced in Court.

7. Today, the father has produced the three children from Muzaffarpur, Bihar. The Court has interacted with all the three children as also the Petitioner and Respondent No.2. The couple has one daughter and two sons. The daughter is the eldest, who was studying in 7th standard last year and both the sons were studying in 6th & 4th standard respectively. They were studying in a government school in Delhi called Ghonda Number 1 School near Hansraj Dairy. They are presently not enrolled in any school and state that they take tuitions.

8. On 11th May, 2024, they left their native village to attend a *mundan* ceremony and thereafter, the children have remained in Muzzafarpur and have not come back.

9. The Court had also referred the family for a mediation today. A senior mediator has met the family and is of the opinion that further sessions would



be needed. From what has been gathered by the Court, the children do not wish to go back to Muzaffarpur, Bihar. The daughter has expressed her willingness to stay with the mother and both the boys wish to stay with their father. However, there has been no reconciliation between the parties and they do not want to continue their marriage. The *Dada* i.e., paternal grandfather is also in Delhi with the Respondent till 13th February, 2025.

10. Under these circumstances, the following directions are issued: -

- i. All the three children shall today accompany the father and stay with him in the Sonia Vihar House where he lives;
- ii. The parties shall attend the mediation session on 13th February 2025.
- iii. On 13th February, 2025, the daughter would be handed over by the father to her mother in the Delhi High Court Mediation and Conciliation Centre so that she can start living with her mother. The daughter shall pursue her education in the school near the mother's place.
- iv. Both the sons shall, however, remain with the father who has undertaken to put them in a school nearby;
- v. The father shall pay a sum of ₹2,000/- from February, 2025 by the 10th of every month to the wife for the educational expenses and other miscellaneous expenses of the daughter. The remaining expenses of both the sons shall be borne by the father himself;
- vi. Both the mother and the father agree and undertake that they shall make the children meet from time to time. The mother would be entitled to meet the boys and the father would also be entitled to meet the daughter. They can also be in touch through telephone, audio and



video calling which shall not be objected to by either of the parents.

vii. The children shall not be permanently sent to Muzaffarpur, Bihar and shall only visit Muzaffarpur, Bihar for the purpose of visiting their grandparents and other family members or on festive and social occasions.

11. All arrangements would be subject to the decision by the Mahila Court, North-East District, Karkardooma Courts where the domestic violence complaint is pending. The Petitioner has also agreed to drop the allegations of domestic violence against Respondent No.2-husband. The Respondent No.2 also agrees to withdraw the petition seeking divorce filed by him in Muzaffarpur, Bihar. The Mahila Court is, however, free to interact with the family and see if the above arrangement needs to be continued or modified.

12. The parties are also free to continue the mediation which has commenced today before the Delhi High Court Mediation and Conciliation Centre. They shall appear before the Ld. Mediator on 13th February, 2025.

13. The petition is disposed of in the above terms. Pending applications, if any, are also disposed of.

PRATHIBA M. SINGH, J

DHARMESH SHARMA, J

FEBRUARY 3, 2025
Ch/ks