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

+ W.P.(CRL) 847/2025

SMT. SWETA SHARMA

.....Petitioner

Through: Mr. Aman Chawla, Mr. Kesar Singh Sawhney and Mr. Karan Dua, Advs. with petitioner.

versus

COMMISSIONER OF POLICE & ORS.

.....Respondents

Through: Mr. Sanjay Lao, Standing Counsel (Crl.) with Ms. Priyam Aggarwal, Mr. Abhinav Kumar Arya and Mr. Aryan Sachdeva, Advs.

SI Purvi Ahlawat, PS Tilak Nagar and Insp. Rizwan, PS Karawal Nagar.

Mr. Sumit Kumar, Advocate for R-3 with R-3 and the daughter child.

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

HON'BLE MR. JUSTICE HARISH VAIDYANATHAN

SHANKAR

ORDER

% **23.04.2025**

1. The present petition has been filed to trace and produce the minor child of the Petitioner herein.
2. The petition discloses that the Petitioner was married to Respondent No. 3 on 03.11.2014 and out of the wedlock, a female child was born on 09.03.2018.
3. Due to misunderstandings between the husband and wife, a

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divorce proceeding was initiated by and between the parties resulting

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into a divorce out of mutual consent *vide* decree dated 12.12.2022.

4. The material on record indicates that prior to the divorce, a settlement had been arrived before the Family Court, wherein it was decided that the Petitioner would keep the child and the visitation rights were provided to Respondent No. 3. However, in the Divorce Decree, the parties had come to an agreement that the minor child would be with the Petitioner herein and the Respondent No. 3 will have no visitation rights.

5. It is stated that on the day of Diwali, the child went to the father and since then the child was not permitted to meet her mother.

6. Material on record also reveals that a Custody Petition has been filed by the Respondent No. 3.

7. This Court has had an interaction with the Petitioner, Respondent No. 3 and the child. The child is about 7 years of age. During the interaction, we found that the child is not under any pressure from any person and was able to speak to us freely and without any fear. The child is emphatic that she wants to live only with her father. She has also given reasons as to why she does not want to be with her mother. This Court is of the opinion that at this juncture without making an elaborate enquiry into the matter, the interest of the child is to let her remain with the father for the present.

8. It is stated that the Custody Petition is coming up on 17.05.2025. The Family Court is directed to decide the application for interim custody within a period of four weeks from 17.05.2025.

9. It is made clear that the fact that we have interacted with the child or the wishes of the child expressed in this Court has been accepted should not in any way affect the decision of the Family

Court, which is requested to take an independent decision.

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10. The aid of a Child Counselor may also be taken by the Family Court before coming to any conclusion as to whom the interim custody should be granted.

11. The Writ Petition is disposed of.

SUBRAMONIUM PRASAD, J

HARISH VAIDYANATHAN SHANKAR, J

APRIL 23, 2025/akc

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