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

+ **W.P.(CRL) 1945/2025**

S MOTHER OF VICTIM MPetitioner

Through: **Mr. Ujwal Ghai, Advocate.**

versus

STATE (NCT OF DELHI) & ORS.Respondents

Through: **Mr. Sanjay Lao, Standing Counsel (Criminal) with Ms. Priyam Agrawal and Mr. Abhinav Kumar Arya, Advocates for the State with Insp. Puneet Bharti, P.S. Kalindi Kunj.**

Mr. Vikas Kumar, Advocate through video conferencing.

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

HON'BLE MR. JUSTICE HARISH VAIDYANATHAN

SHANKAR

ORDER

% **01.07.2025**

CrI.M.A. No. 18217/2025 (for exemption)

Exemption allowed, subject to all just exceptions.

The application stands disposed of.

W.P.(CRL) 1945/2025

1. The instant petition has been filed under Article 226 of the Constitution of India read with Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in the nature of *habeas corpus* seeking directions to trace and produce the minor daughter of the Petitioner, who, according to the Petitioner/mother is in the illegal custody of Respondent no. 2 – Prayas Juvenile Aid Centre [**JAC**]
2. The facts of the case, as stated in the present petition reveal that the Petitioner was married and was blessed with a child. Differences arose between the couple and with the mutual consent the custody of



the minor child was given to the husband of the Petitioner.

3. The material on record further indicates that the younger brother of the husband has committed rape on the minor child, which has resulted in registration of FIR No. 448/2024 at Police Station Kalindi Kunj under Section 376 of the Indian Penal Code, 1860 and Section 6 of the Protection of Children from Sexual Offences Act, 2012. Consequently, the custody of the minor child was handed over to the Child Welfare Committee [‘CWC’] and thereafter, the minor child is now in the custody of Respondent no. 2 – JAC.

4. It is stated by learned counsel for the Petitioner that the Petitioner now intends to seek custody of the minor child.

5. This Court is of the opinion that the minor child is not in the illegal custody of Respondent no. 2. It is always open for the Petitioner, who is the mother of the child, to move an appropriate application before the CWC for custody of her child which shall be considered by the Respondent no. 2 on its own merits.

6. The petition stands disposed of in the aforesaid terms.

7. It is made clear that this Court has not made any observations on the merits of the case. The application, if and when made, be decided expeditiously by the CWC, preferably within a period of four weeks from the date of moving the application. In case the Petitioner is unsuccessful, she is at liberty to resort to such other remedies as available to her in accordance with law.

SUBRAMONIUM PRASAD, J.

HARISH VAIDYANATHAN SHANKAR, J.

JULY 01, 2025/AK/VA