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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(CRL) 4023/2024

SMT MAHAK

.....Petitioner

Through: Mr. Manoj Kumar Sharma and MS.
Rita, Advs.

versus

THE STATE NCT OF DELHI & ORS.

.....Respondents

Through: Mr. Sanjay Lao, Standing Counsel
(Crml.) with Ms. Priyam Aggarwal &
Mr. Abhinav Arya, Advs. with SI Anil,
PS Seemapuri.
Mr. Sanjeev Kumar, Mr. Anand, Mr.
Vikas Kumar Bhardwaj and Mr.
Harshit Anand, Advs. for R-2 & 3.

CORAM:

JUSTICE PRATHIBA M. SINGH

JUSTICE RAJNEESH KUMAR GUPTA

ORDER

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21.02.2025

1. This hearing has been done through hybrid mode.
2. The present petition has been filed by the Petitioner/Mother - Smt. Mahak under Article 226 of the Constitution of India read with Section 528 of BNSS, 2023 seeking issuance of a writ in the nature of *habeas corpus* for production of her 18 months (approximately one and a half years) old daughter who is alleged to have been forcefully taken away by the Respondent Nos. 3 and 4.
3. The parties are present today with the child today. The Court has had an in-chamber interaction with the Petitioner-Mother, Respondent No.3- Father and Respondent No.4 - the *daadi* of the child. The Petitioner-Mother has had custody of the child for more than ten days *vide* the order dated 10th

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February, 2025. The child is comfortable both with the Petitioner-Mother as also Respondent No.4 - the *daadi*.

4. The Petitioner and her husband are clear that Petitioner does not wish to continue the marriage and would be seeking divorce. On enquiring she categorically submits that the mediation proceedings ought to be closed. The Petitioner has already filed an application seeking maintenance under Section 125 of Cr.P.C. which is pending in Karkardooma Court.

5. Under these circumstances, since the child cannot be deprived of either parent, following directions are issued:

i) That from 1st to 15th of every month, the child shall stay with the mother and her family. From 15th till the end of the month, the child shall stay with the father and his family.

ii) The Petitioner lives in Delhi and the husband lives in Hisar. On the 15th of every month, the husband would be free to pickup the child from the residence of the Petitioner at Delhi and drop the child back to the same place at the end of the month.

iii) When the pick and drop happens, neither family members will engage in any abusive behaviour or physical violence against each other.

iv) If required, for the first 2-3 occasions, the husband is free to talk to the IO and drop the child in the presence of the IO.

v) For this month, the child is permitted to accompany the father and the *daadi*. They shall drop the child back on 1st March, 2025.

6. The parties are free to avail of their remedies in accordance with law.

7. This arrangement shall be an interim arrangement until a Court of competent jurisdiction passes appropriate orders after hearing the parties.



8. The mediation proceedings are also closed.
9. Petition is disposed of in these terms. All pending applications, if any, are also disposed of.

PRATHIBA M. SINGH, J.

RAJNEESH KUMAR GUPTA, J.

FEBRUARY 21, 2025

Rahul/Am