IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CMPMO No.476 of 2026

Date of decision:26.10.2026

Amit Kumar Kalia ...Petitioner

Versus

Reena Devi ...Respondent

Coram:

The Hon'ble Mr. Justice Romesh Verma, Judge.

Whether approved for reporting?[1]

For the petitioner: Mr. Parav Sharma, Advocate.

For the respondent: Mr. J.P. Sharma, Advocate.

Romesh Verma, Judge (oral):

The instant petition arises out of the impugned judgment passed by the learned Sessions Judge, Hamirpur, dated 01.07.2026, whereby the appeal under Section 29 of the Protection of Women from Domestic Violence Act, 2005 came to be dismissed and the order passed by the learned Additional Chief Judicial Magistrate, Court No.1, Hamirpur, dated 27.09.2025 was affirmed, whereby the application for seeking custody of the child was partly allowed.

2. The brief facts as emerge in the present case are that the present respondent, Smt. Reena Devi, filed an application under Section 21 of the Protection of Women from Domestic Violence Act, 2005 for custody of minor children. It was contended in the application

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Whether reporters of Local Papers may be allowed to see the judgment?

that the marriage *inter se* the parties was solemnized on 04.08.2016 at Village Buhar, Post Office and Tehsil Sujanpur, District Hamirpur, according to Hindu custom, rites and ceremonies and out of the said wedlock, one son, namely, Aditya and one daughter, namely Amayra, were born. In the application, it was prayed that directions be issued to hand over the custody of both the minor children to the present respondent.

3. The said application came to be resisted by the present petitioner by filing a comprehensive reply.

4. The learned Additional Chief Judicial Magistrate, Court No.1, Hamirpur, vide order dated 27.09.2025, partly allowed the application by directing the present petitioner to hand over the custody of minor daughter to the present respondent. However, it was ordered that the petitioner would be at liberty to move an appropriate application seeking custody of the daughter back, once the daughter of the parties attains the age of five years, if so advised.

5. Feeling dissatisfied, the present petitioner preferred an appeal under Section 29 of the Protection of Women from Domestic Violence Act, 2005 before the Court of the learned Sessions Judge, Hamirpur, on 16.10.2025. The learned Sessions Judge, vide impugned judgment dated 01.07.2026, affirmed the findings of the learned Additional Chief Judicial Magistrate and dismissed the appeal filed by the present petitioner.

6. Feeling dissatisfied, the petitioner has invoked the provisions of Article 227 of the Constitution of India against the judgment passed by the learned Sessions Judge and the order passed by the learned Additional Chief Judicial Magistrate, Hamirpur.

7. At the time of hearing, it was pointed out by the learned counsel for the respondent that a perusal of the order passed by the learned Additional Chief Judicial Magistrate reveals as follows:

> *"Hence, the application is partly allowed. Respondent is directed to hand over the custody of the daughter of the parties to the applicant forthwith. The respondent is put at liberty to move appropriate application seeking the custody of the daughter back once the daughter of the parties attains the age of five years, if advised. No order as to cost. Application stands disposed-of. Be registered and tagged with main case file for record."*

8. In the operative portion of the order passed by the learned trial court, though it was ordered that the custody of the minor daughter shall be handed over to the present respondent, however, liberty was granted to the present petitioner to file an appropriate application seeking custody of the daughter back, once the minor daughter attains the age of five years.

9. It has been jointly contended by the learned counsel for the parties that the minor daughter has attained the age of five years in September 2026 and this fact has not been disputed by either of the parties.

10. It is contended by the learned counsel for the respondent that the present petition has become infructuous as a fresh cause of action has arisen in favour of the present petitioner and he may invoke the same by filing an appropriate application before the competent court of law.

11. Without adjudicating anything on the merits of the case and without disturbing the findings rendered by the learned courts below, this Court disposes of the present petition by granting liberty to the present petitioner to file an appropriate application before the competent court of law, as liberty has already been granted by the learned courts below for doing the needful. In the event of an application being filed for custody of the daughter, the learned trial court is requested to decide the said application expeditiously.

12. With these observations, the present petition is disposed of without interfering with the impugned judgment or order passed by the learned courts below.

13. Pending application(s), if any, shall also stand disposed of.

(Romesh Verma)
Judge

26th October, 2026.
(vt**)**