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

+ **W.P.(CRL) 2014/2024**

SHRI NISHANT KAPOORPetitioner

Through: Petitioner through VC.
versus

STATE OF NCT DELHI & ORS.Respondents

Through: Mr. Sanjay Lao, Standing Counsel
(Crl.) for the State with Mr. Abhinav
Kumar Arya, Advocate.
Insp. Sanjeev Kr. Alongwith IO HC
Parveen, P.S. Adarsh Nagar.
Ms. Harpreet Kaur, through VC.

CORAM:

JUSTICE PRATHIBA M. SINGH
JUSTICE AMIT SHARMA

ORDER

% **08.07.2024**

1. This hearing has been done through hybrid mode.
2. The present petition has been filed by the Petitioner- Mr. Nishant Kapoor under Article 226 of the Constitution of India read with Section 482 Cr.P.C. The Petitioner *vide* the present petition is seeking issuance of a writ of habeas corpus, thereby directing the Respondent Authorities to produce his wife and son before this Court.
3. It is stated in the petition that the Petitioner got married to Ms. Harpreet Kaur on 4th February, 2016. Further, from the wedlock they had a child, Master Pragnay Kapoor on 11th February, 2020. However, there were differences which arose between the parties and subsequently, a petition under Section 25 of the Guardians and Wards Act, 1890 was filed by the Petitioner herein against his wife. The same was disposed of as settled on 31st January,



2024.

4. In the order dated 19th January, 2023 in **GP 23/23** titled Nishant v. Harpreet, various terms have been recorded by the Court including the possible treatment for the child, Master Pragnay Kapoor who is suffering from cerebral palsy. The order would be relevant and set out hereinbelow:-

“The present case is assigned by the Hon'ble Court of Ms. Nivedita Anil Sharma, Ld. Principal Judge, Family Court, North District, Rohini Court, New Delhi. Process of counselling has been explained in detail to the parties with greater emphasis of confidentiality. Heard the parties jointly as well as separately. They have agreed to settle their matter voluntarily and amicably without any force/coercion on the following terms and conditions:-

- 1. The child born from this wedlock is need more medical care and attention due to his physical & mental inability.*
- 2. That it is agreed between the parties that the Medical expenses and other misc. expenses of the child Pragnay will be borne by the father/ petitioner and respondent will take all care of the child till 15/03/24 we join together with each other company.*
- 3. That it is agreed between the parties that the petitioner have a visitation right to meet child Pragnay on every Sunday between 2-4 p.m. at any public place or restaurant as per convenience of the child.*
- 4. That it is agreed between the parties that child Pragnay used to go for therapy sessions 6 days in a week and petitioner can meet his child during this therapy session also and he used to meet the child several times during therapy sessions.*
- 5. That it is further decided between the parties that parents of the child will also consult or treatment through out the world for example US or Canada and they are ready to go to the decided place for medical*



consultation regarding paramount welfare of the child for 15 to 20 days trip.

6. That it is agreed between the parties that petitioner have to arrange around 8.50 Lakhs Rupees in his account for visa purposes only before 30 November 2023. Petitioner said that he will arrange such amount by taking loan from bank or relatives. For applying visa we need to show such amount in our account for atleast more than 1 months in this situation petitioner will give his updated statement to the respondent prior to 30 November 2023 if Nishant miss that date He would have buffer time for 15 days to provide statement for further procedure of applying Visa. Once visas are done ,after booking flights tickets all cases will be withdrawn by both the parties filed against each other.

7. That it is agreed between the parties that petitioner will hand over all required and necessary documents regarding visa formalities to the respondent on or before 1" November 2023.

8. That it is agreed between the parties that the travelling expenses of petitioner, respondent and child will be borne by both the parties and after reaching US or Canada all expenses will be borne by. the respondent only.

9. That it is agreed between the parties that in case if their second application for Visa got rejected for any reason then respondent will withdraw all her cases against the petitioner and also she will join back the society of the petitioner at rental accommodation on 15th March 2024. 10. That it is agreed between the parties that all the belongings like gold article cost around twenty five lakhs only appoximatly purchase by the both parties of the respondent will be remain with the respondent even after joining the society of the petitioner.

11. Both the parties have been read out the contents of the present settlement in vernacular language and the same have been made understood to both the parties and



both the parties undertakes to be bound by the terms of this settlement.”

5. An affidavit was sworn by Ms. Harpreet Kaur, confirming the settlement. However, despite agreeing that she would join the Petitioner and start living together from 15th March 2024, the facts reveal that she flew to the United States of America on 13th March, 2024.
6. According to the Petitioner, till 12th March 2024, they were together looking for a house and he was not informed that his wife had decided to travel to New York along with their son. This was completely deceptive and unlawful conduct on the part of the wife.
7. It is the case of the Ms. Harpreet that the Petitioner had agreed to travel with them for the medical treatment, however, the Petitioner later backtracked. This is disputed by the Petitioner.
8. Let the status report and all the orders passed by the Guardianship and Ward Court be placed on record.
9. Both the Petitioner and his wife Harpreet Kaur have joined today through video conferencing. It has now been confirmed that Ms. Harpreet is living with her mother and her siblings in New York. Her father is also living with her, however he is currently in Texas.
10. Ms. Harpreet Kaur, is impleaded as Respondent No.6 in the present petition.
11. Considering the fact that the child, Master Pragnay Kapoor has been taken away from the jurisdiction of the Court, contrary to the order dated 31st January, 2024 passed by the Family Court, North District, Rohini Court, Delhi, let the Respondent No. 6 file a reply as to why action ought not to be initiated against her for contempt in accordance with law.



12. It is further directed that the Respondent No. 6 shall facilitate a video call for at least ten minutes every day with the child, Master Pragnay Kapoor with his father.

13. Let the reply be filed within two weeks.

14. List on 1st August, 2024. The Petitioner and Ms. Harpreet Kaur shall join the proceedings on the next date also.

PRATHIBA M. SINGH, J.

AMIT SHARMA, J.

JULY 8, 2024/nk/pr