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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(CRL) 2014/2024, CRL.M.As. 31146/2024, 31147/2024**
SHRI NISHANT KAPOORPetitioner
Through: Mr. Sharad Malhotra, Adv.
versus

STATE OF NCT DELHI & ORS.Respondents
Through: Mr. Sanjay Lao, Standing Counsel
(Criminal) with Ms. Priyam Agarwal
& Mr. Abinav Kumar Arya, Advs.
Inspector Arun Kumar, PS Adarsh
Nagar.

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE AMIT SHARMA

ORDER
% **16.10.2024**

1. This hearing has been done through hybrid mode.

CRL.M.A. 31147/2024 (for exemption from filing typed copies)

2. Allowed, subject to all just exceptions. Application is disposed of.

CRL.M.A. 31146/2024 in W.P.(CRL)-2014/2024

3. The Petitioner - Mr. Nishant Kapoor filed the present writ petition under Article 226 of the Constitution of India read with Section 482 of CrPC seeking issuance of a writ in the nature of *habeas corpus* for the production of his wife and minor son - Master 'P'.

4. It was the case of the Petitioner that he had 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 *vide* order of the Family Court, North District, Rohini Court, Delhi .

5. The matter was listed on 8th August, 2024, considering the facts of the case and after hearing the parties the Court had observed as under:

“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.”

6. Thereafter, on 1st August, 2024, the said petition was disposed of by this Court with the following observations and directions:

“18. Both Ms. Harpreet Kaur and her Counsel submit that she tenders her unconditional apology for having violated the settlement terms and for having taken the child out of the jurisdiction of this Court.

19. In the opinion of this Court, the conduct of Ms. Harpreet Kaur has been deceptive to say the least. Under such circumstances she is now giving an undertaking to the Court that she would return back to India by 10th September, 2024 along with the child.



20. The Court accordingly directs that Ms. Harpreet Kaur shall return to India with the child by 10th September, 2024. If there is failure to return to India by the said date, the Petitioner is free to use the present order and communicate the same to the U.S. Embassy in India as also for notify the Immigration Authority in the U.S regarding the conduct of Ms. Harpreet Kaur.

21. The original passport of the child has been produced before the Court and has been seen by the Court.

22. The Petitioner is given liberty to approach this Court if the wife and the son do not return to India before the aforesaid date.”

7. The Petitioner has filed an application seeking permission to revive the aforesaid writ petition on the ground that his wife-Ms. Harpreet Kaur, who had undertaken to return to India along with the child by 10th September, 2024 has failed to do so.

8. Let notice of this application be issued to the counsel who had appeared for Ms. Harpreet Kaur in the aforesaid petition, as well to Ms. Harpreet Kaur on her email address.

9. In addition, notice be also issued to Mr. Anurag Ahluwalia, Id. CGSC, to take instructions as to the details of the passport of Ms. Harpreet Kaur and what steps can be taken in this regard to ensure their presence.

10. List on 5th November, 2024.

PRATHIBA M. SINGH, J

AMIT SHARMA, J

OCTOBER 16, 2024/dj/ms/pr