



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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CR-6356-2025

Date of Decision.:11.09.2025

Sanjogta @ Sanjogita

.....Petitioner

Vs.

Ram Chander and Others

.....Respondents

CORAM:- HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Ms. Monita Mehta, Advocate
for the petitioner.

DEEPAK GUPTA, J. (ORAL)

Background : The present litigation concerns the custody of a female minor child, named Nitya, born on 08.04.2020, thus now aged about 5½ years. Her parents, Rahul and Sonia, were married in 2019. Sonia (the mother) unfortunately died an unnatural death. Rahul (father of the child) and his mother Smt. Sanjogta (present petitioner and grandmother of the child) are facing trial in FIR No.102 dated 10.04.2023 under Sections 304-B/34 IPC in connection with her death. Respondents No.1 and 2 herein, Ram Chander and Suresho Devi, are the maternal grandparents (nana-nani). Respondents No.3 and 4 herein, Mausam and Priyanka, are the paternal aunts (buas) of the child.

2. On a petition filed by respondent Nos.1 and 2 (*maternal grandparents*), the Family Court, vide order dated 03.11.2023, granted custody of the minor child to them and directed respondents No.3 and 4 (paternal aunts) to hand over custody. The said order was challenged by respondents No.3 and 4 before this Court in CR No.6884 of 2023 but the same was dismissed on 16.11.2023 (Annexure P-2), thereby affirming the grant of custody to the maternal grandparents.



3. Respondent No.1 moved an application under Section 151 CPC for compliance of the order dated 03.11.2023. In reply, respondents No.3 and 4 submitted that the minor was no longer with them and had been placed in the custody of their mother, Smt. Sanjogta (petitioner herein). The Family Court, by way of the impugned order dated 19.08.2025, found that respondents No.3 and 4 had deliberately avoided compliance of the earlier custody order and, to frustrate the same, had handed over the child to their mother without permission of the Court.

4. The petitioner (grandmother) has assailed the order dated 19.08.2025 on the grounds that that she was not a party to the proceedings when the order dated 03.11.2023 was passed; and that as the grandmother, she is taking proper care of the child and has a preferential right over the child comparing to the maternal grandparents.

5. Heard. Under Section 17 of the Guardians and Wards Act, 1890, in matters of custody, the *welfare of the minor* is the paramount consideration. Personal law or relative seniority of claim is not decisive. The Hon'ble Supreme Court has consistently reiterated in ***Gaurav Nagpal v. Sumedha Nagpal, (2009) 1 SCC 42***, and ***Roxann Sharma v. Arun Sharma, (2015) 8 SCC 318***, that custody disputes must be resolved not on strict rights of parties but on what best serves the welfare, security, and well-being of the child. A person facing grave criminal charges in connection with the unnatural death of the child's own mother cannot ordinarily be treated as a suitable guardian, having regard to the emotional and psychological welfare of the child.

6. The Family Court had granted custody to the maternal grandparents. This Court, while dismissing CR No.6884 of 2023 on 16.11.2023, confirmed the said order. That order has attained finality and continues to bind all parties. Despite the clear direction, respondents No.3 and 4 avoided compliance and handed over custody to their mother (the petitioner), without any sanction of law. Such conduct is a deliberate attempt to frustrate a lawful judicial order.

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7. The contention of the petitioner that she was not a party to the earlier proceedings cannot justify her present possession of custody. The determinative consideration is the child's welfare, not mere biological proximity. The petitioner is facing trial for offences under Section 304-B IPC concerning the mother's death. In such circumstances, entrustment of custody to her would not only be contrary to the principle of welfare of the child but may also adversely affect the child's upbringing and emotional well-being. At her tender age, the child requires a safe, nurturing, and stable environment. The maternal grandparents (respondents No.1 and 2), against whom there is no allegation of involvement in the tragic death of the child's mother, are far better placed to ensure such welfare. The Family Court's conclusion that custody must remain with them is both legally sound and in consonance with the paramount principle under Section 17 of the Guardians and Wards Act.

8. Thus, the Family Court was correct in holding that the plea raised by respondents No.3 and 4, and now by the petitioner, amounts to a misuse of process of law. The present petition is nothing but an attempt to perpetuate disobedience of the order dated 03.11.2023 and to retain custody in defiance of judicial authority.

9. Consequently, this Court finds no ground to interfere with the impugned order dated 19.08.2025. The present petition is dismissed with costs. The Family Court shall ensure immediate compliance with its earlier order dated 03.11.2023 and secure custody of the minor with respondents No.1 and 2 (*maternal grandparents*) without further delay.

(DEEPAK GUPTA)
JUDGE

September 11, 2025

Neetika Tuteja

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No