



**CR No.2193 of 2025 (O&M)**

**S. No.130**

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

**\*\*\*\***

**CR No.2193 of 2025 (O&M)  
Date of Decision:07.04.2025**

**Ranjeet Kaur**

**.....Petitioner**

**Vs.**

**Jasjeet Singh**

**.....Respondent**

**CORAM:- HON'BLE MR. JUSTICE DEEPAK GUPTA**

**Present:- Mr. J.S. Dadwal, Advocate for the petitioner.**

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**DEEPAK GUPTA, J. (Oral)**

Petitioner is mother of minor child aged 03 years and 06 months. Said child is presently in the custody of her father, i.e. husband of the petitioner. Petitioner filed a petition (Annexure P.1) under Sections 7, 25 and 26 of the Guardian and Wards Act, 1890 read with Sections 6 & 13 of the Hindu Minority and Guardianship Act, 1956 seeking custody of person of minor daughter, namely, Harjas Kaur (date of birth 15.09.2021). In that petition, she moved application (Annexure P.2) seeking interim custody of the minor child. However, the said application for interim custody has been rejected by the Principal Judge, Family Court, Jalandhar vide impugned order dated 01.03.2025 (Annexure P.4), which has been assailed before this Court.

2. It is contended by learned counsel that the minor child is less than 06 years old and, therefore, petitioner being the mother is entitled for her interim custody, particularly when the child is a girl child, in view of Section 6 of the Hindu Minority and Guardianship Act, 1956.

3. The afore-said contention was also raised by the petitioner before the Family Court and after noticing the relevant case law, as per which it is

**CR No.2193 of 2025 (O&M)**

welfare of the child, which was required to be taken into consideration, the Family Court observed as under:-

“8. Being guided through such statutory provisions of law laid down in the above referred judgments, the material on file of this matter is carefully considered and scrutinized. It is an undisputed fact that the minor Harjas Kaur was born on 15.09.2021 and as of now she is aged about 3 years and 4 months. It is also not a disputed fact that the appellant left her matrimonial house on 21.04.2023 and she has instituted this petition and application for interim custody on 04.08.2023 i.e. after a period of about four months of her separation from the minor. In a case of custody of minor, it is the primary duty of the court to see that under whose custody the welfare of the child lies in a better way. In this case, the respondent has specifically stated that while leaving the matrimonial house, the applicant by herself left the minor daughter with him. This contention of the respondent is prima facie corroborated with the video recording pertaining to the said moment. It is seen in the video that the applicant did not even respond to the request of respondent to take her minor daughter alongwith her when she left the matrimonial house. In another video, the applicant is seen bugging her head continuously against the wall by saying ‘my son my parents’. Interestingly said videos were brought to the notice of the court during hearing that too in the presence of the applicant, but she has simply stated that at that point of time she was under mental stress due to matrimonial discord as such she did so. Even in para No.9 of her petition (*the contents of which are part of this application*), she has specifically stated that the movement of her leaving the matrimonial house without the minor but this contention of the applicant is yet to be tested on merits during trial.

9. As of now, for the limited purpose of disposal of this application, the material on file clearly shows that the minor child was left by the applicant at her in laws house with her own sweet will and she never tried to take back the custody of minor child despite the expiry of next four months from her separation from the minor. It is also necessary to observe here that as per the copy of receipt placed on record by the respondent, the minor has already been admitted in Nursery class at St. Joseph Convent School, Kartarpur as such, the transfer of custody of

**CR No.2193 of 2025 (O&M)**

minor to the applicant would amount to re-rooting the minor in new atmosphere after a period of about 2 years of her exclusive stay with her father/ respondent and grand parents as well as her acquaintances in the school. In view of the law laid down by the Punjab and Haryana High Court in **Sunita Vs. Satish Kumar (supra)**, while deciding the question of custody of minor below five years, provisions of Section 6(a) of the Hindu Minority and Guardianship Act does not stipulate that under all circumstances the child below five years must remain in the custody of mother. As such, keeping in view the circumstances involved in this matter, this court does not deem it appropriate to shift the minor child to the custody of applicant. This inference is also valid in view of the fact that the applicant has not even pleaded that the respondent is not taking proper care of the minor daughter, rather she has opted to put fourth the plea of better financial status of her parents only which fact has no relevance in the absence of her plea that the respondent does not have resources to keep and maintain the minor child in proper manner.

10. This Court is also mindful of the fact that for the proper upbringing of the minor child, she needs the company of both her mother and father as such, the observation made in the preceding paragraphs, shall be without prejudice to the right of applicant to meet the minor child on the first and third Saturday of every month at ADR Center, Jalandhar and the respondent shall be under the responsibility to bring the minor child at ADR Center, Jalandhar from 2:30 PM to 4:30 PM on the designated days. It is also made clear that the right of applicant/ mother to seek interim custody shall remain intact in future on change of circumstances.”

4. Having considered the reasons mentioned in para Nos.8 and 9 of the impugned order passed by the trial Court, this Court does not find any merit in the present petition, considering the fact that it is the petitioner, who at her own had left the child with her husband, at the time of leaving the matrimonial home and when the husband of the petitioner asked her to take the child, she did not even respond. It has also been noticed by the Family Court that child is presently admitted in Nursery Class at St. Joseph Convent School, Kartarpur, and, therefore,



**CR No.2193 of 2025 (O&M)**

it will not be in her interest to re-root her in new atmosphere after a period of about two years of her exclusive stay with her father and grandparents.

5. In the absence of any illegality or perversity in the impugned order, this Court is not inclined to interfere therein.

6. No merits.

7. Dismissed.

**April 07, 2025**

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**(DEEPAK GUPTA)**

**JUDGE**

Whether Speaking/reasoned Yes/No

Whether Reportable Yes/No