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

+ W.P.(CRL) 610/2017

MONIKA

..... Petitioner

Through Mr. Yudhvir Singh Chauhan and Mr. B.C. Tyagi, Advocates

versus

STATE & ORS

..... Respondents

Through Mr. Rahul Mehra, Standing Counsel with Mr. Tushar Sannu, Advocate for the State along with Inspector Satyavir and SI Mukesh Kumar, P.S. Bindapur.
Mr. Rakesh Kumar, Advocate for respondents no.5 and 6.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MR. JUSTICE VINOD GOEL

O R D E R
28.02.2017

This is a petition under Article 226 of the Constitution of India filed by the mother of two children aged 08 years and 2½ years. As per the writ petition, the marriage between the petitioner and respondent no.5 was solemnised on 03.12.2007. On account of marital discord, the petitioner had left the matrimonial home along with two children and took up a place on rent since 01.12.2016. The complaint of the petitioner is that both the children were kidnapped by the father and thereafter she is not being allowed to meet them. Another complaint which is being raised before us is that after removing the children from her lawful custody on 03.02.2017, the children are not being sent to school.

The respondents no.5 and 6 are present in Court. They are also represented by a counsel. Respondents submit that they did not remove the custody of the children from the mother, but keeping in view the condition of the children and the fact that the mother is not competent to look after the

children, they had taken the children to their house.

After some hearing in the matter, the writ petition is disposed of with the following agreed directions:

- (i) The custody of the children is handed back to the mother;
- (ii) The children will spend Sundays with the father and his family members between 11:00 A.M. to 5:30 in the evening;
- (iii) The children will be picked up by the father and dropped at the scheduled time;
- (iv) The father will also be entitled to meet the children once every 10 days for two hours apart from Sundays at the convenience of both the parties;
- (v) The time schedule shall be followed strictly; and
- (vi) It will also be open for either of the parties to approach the Family Court in case they so desire and, in case any such petition is filed, the same shall be decided unaffected by any of the observations made by this Court today.

The writ petition stands disposed of in above terms.

G.S.SISTANI, J

VINOD GOEL, J

FEBRUARY 28, 2017

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After the order was passed, the matter was mentioned by respondent no.5, father. It was prayed that since the elder son does not want to go with the mother, he would drop the child to the mother's house in the evening. He also

prayed that for the next ten days, he be allowed to meet the children daily. Both prayers are agreed to by the petitioner. Ordered accordingly.

G.S.SISTANI, J

VINOD GOEL, J

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