

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH**  
**CIRCUIT COURT MIRPURKHAS**

Crl. Misc. Application No.S-206 of 2024

DATE	ORDER WITH SIGNATURE OF JUDGE
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- 1. For orders on office objection.
- 2. For hearing of main case.

21.03.2025

Mr. Bhooro Bheel, advocate a/w applicant.  
Mr. Irshad Ali Khoso, advocate for the respondent No.5.  
Mr. Ghulam Abbas Dalwani, Deputy Prosecutor General Sindh a/w  
SSP Badin and SIP Haji Khan of PS Talhar.  
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Counsel for Respondent No.5 states that he has tried multiple times, but Respondent No.5 has not come into his contact. SSP Badin appeared and states that the minor will be produced on the next date of hearing, and he will enquire from the SHO of PS Talhar as to why, since the last three dates of hearing, the minor has not been produced. Baby Hasina D/o Mehboob, aged about 06 years, is forcibly taken away by the father, and divorce has been executed between the parties. On the last date of hearing, counsel for Respondent No.5 stated that he has filed Guardian and Wards proceedings before the competent court and will obtain the stay order, and only as an indulgence the matter was fixed today on his undertaking that he will produce the minor.

It may be observed that this court is bound with regard to the provision of Section 491 Cr.P.C, and under Muhammadan law, the mother has the right to custody of the minor especially a girl who ought to be with the mother and not with the father. In case, the father wants custody, he has the only remedy to approach the Guardian and Wards Court and demonstrate that he has right but not in the way and manner he adopted

by forcibly taking away and depriving the mother of her valuable right recognized under Muhammadan law. Even defied after giving undertaking before this court.

In view of statement of learned DPG, let SHO of PS Talhar shall produce the minor in order to hand over the custody of the minor Baby Hasina D/o Mehboob to her mother. Obviously, it is right of Respondent No.5 to institute the appropriate proceedings to get custody of the minor ward from competent court of law that may decide the competency between the father and mother.

Accordingly, this Crl. Misc. Application stands disposed of with the direction to produce the minor before the Additional Registrar of this court, who shall hand over the custody to the mother after proper identification and verification on 27.03.2025. At the request of learned counsel for Respondent No.5, the Applicant is put on notice not to remove the custody of minor Baby Hasina D/o Mehboob from the ordinary jurisdiction of domicile/District Umerkot and also to accommodate the Respondent No.5 to visit his daughter during Eid days.

**JUDGE**

*\*Faisal\**