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ORDER SHEET  
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA.

Cr. Misc. Appln. No. S- 179 of 2024.

Date of hearing

Order with signature of Judge.

1. For orders on office objections as flag A.
2. For hearing of main case.

24.6.2024.

Mr. Muhammad Sharif Ghanghro, advocate a/w applicant.

Mr. Ajmair Ali Bhutto, advocate for the respondent No.5.

Mr. Munwar Ali Abbasi, Asstt. A.G a/w SHO P.S Naudero.

Respondent No. 4 is present.

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In compliance of order dated 04.6.2024, respondent No.4 is present alongwith detinue Shahzain aged about 5 months. Progress report and statement filed on behalf of respondents No.1 and 2, taken on record.

Learned counsel for the respondent No.5 relying upon cases reported at 2009 MLD 258, PLD 2014 Sindh 386, 2020 P.Cr.L.J 1079, 2021 YLR 2334, PLD 1995 Supreme Court 633 and 2001 SCMR 1782, states that present applicant had earlier applied for the custody of the minor before learned Additional Sessions Judge which was declined vide order dated 29.5.2024, wherein in the ground No.4 it was stated that the baby had been snatched from Karachi as such this second attempt is not only without jurisdiction, same is not available as the said dismissal order referred above was never challenged. He further contends that the present application is not only hit by *res judicata*, same is not covered by the element of efficacious remedy as relevant laws are present which are open to be exercised.

Learned counsel required to make further detailed arguments, however, considering the tender age of the minor being five months and the family ties still in existence between the parties i.e the petitioner being the mother and the respondent No.4 the father, it was preferred by this Court that instead of a detailed order whereby the rights of the parties may be discussed and put to exposure, the custody of the minor be handed over to the mother

while providing the father opportunity to make his visits as may desired by him with reasonability who shall not be restricted in this regard by the petitioner or her family members. Learned counsel for the petitioner concedes to the same. It may be observed that in a decent society the families are raised with love and affection and not by compulsions. Undoubtedly it is for the parties to determine their future and this Court in the in the present case is found required to see that sufficient opportunities is made available in this regard. In family matters it is preferred to ensure that the parties are properly provided opportunity of reconciliation as healthy society can only continue with healthy family which is basic building block of the society.

For the foregoing reasons, this petition stands disposed of while handing over the custody of the minor Shahzain to the mother Mst.Kainat present in the Court and at the same time providing opportunity to the respondent No.4 Shahzado to make his visits as above referred at her present place of residence which shall be restricted by the in laws. The parties are directed to conduct themselves observing decent manners. However, both the parties are free to exercise their available legal remedies in case so required before competent forum/s as provided in law.

The criminal miscellaneous application stands disposed of in the above terms.

  
JUDGE

Shahir