

ORDER SHEET  
IN THE HIGH COURT OF SINDH, KARACHI  
Cr. Misc. Appln No.369 of 2023

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Date Order with Signature(s) of Judge(s)

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**Fresh case**

1. For orders on M.A. No.6740/2023.
2. For orders on office objection & reply of Adv. at flag 'A'.
3. For orders on M.A. No.6741/2023.
4. For hearing of main case.

**09.06.2023**

Ms. Sabeen Shafi, Advocate for applicant.  
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1. Urgent application is granted.
2. Office objections are deferred.

**3&4.** The applicant herein, on 12.02.2023, filed Habeas Corpus Petition No. 112/ 2023 before the Court of Sessions Judge, Karachi-South for issuance of *rule nisi* by directing the official respondent/ S.H.O., P.S. Mehmoodabad, Karachi-South to produce minor detainee/ his son Suleman Butt (*aged 11 years*) from custody of respondent No.4 (*his ex-wife and real mother of the said minor*) and respondents No. 5 to 12 (*the father, brothers and sisters of the respondents No.4*) and handing over his custody to him. The Petition was marked to Addl. Sessions Judge-III, Karachi-South. On 19.01.2023, the alleged minor detainee appeared before the Court of Additional Sessions Judge-III, Karachi-South and stated that since the applicant had contracted third marriage and he as well as his wife beat him, he was not willing to reside with them and expressed his wishes to reside with the respondent No.4/his mother. As such, the Court allowed the said minor to reside with his mother and directed to parties to approach the concerned Guardian & Ward Court for seeking permanent custody of the said minor by restraining the respondent No.4 from removing his custody outside the jurisdiction of the Court till further orders and disposed of the Petition vide order dated 19.01.2023. Subsequently, on 13.05.2023, the applicant filed a

contempt application under section 3/4 of the Contempt of Court Act before the Court of Additional Sessions Judge-III, Karachi-South for initiating contempt proceedings against the respondents No.4 to 12 on the ground that they intend to shift the minor to some unknown place without intimating the Court. The Court dismissed the contempt application, vide order dated **22.05.2023**, observing the fact that since parties have approached to G&W Court, order dated 19.01.2023 has become infructuous. It is against that order of 22.05.2023 that this Crl. Misc. Application has been preferred by the applicant.

Heard and perused.

At the very outset, learned counsel for the applicant failed to make out any case of interference in the impugned order. It is an admitted position that the private respondents were restrained from removing the custody of the minor from the jurisdiction of Court below till further orders directing the parties to approach the concerned G&W Court for seeking permanent custody. The moment the parties approached to concerned G&W Court, the order dated 19.1.2023 has become infructuous as the restraining order was up to the time when parties were required to approach the G&W Court. Now whatever relief is available to parties under the G&W Act, the same shall be granted by the G&W Court. Hence, this Crl. Misc. Application being devoid of any merits is dismissed in *limine* along with listed applications.

JUDGE