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ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA
Crl Misc. Appln. No.S-162 of 2013.

DATE OF HEARING	ORDER WITH SIGNATURE OF HON'BLE JUDGE
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26.7.2013.

1. For orders on office objection as Flag 'A'.
2. For Katcha Peshi.

Mr. Sikandar Ali Junejo, advocate for applicant.

Mr. Abdul Rasheed Soomro, State Counsel along with SIP
Noor Mohammad.

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Mr. Ghulam Akbar Soomro, advocate files Vakalatnama on behalf of respondent No.4, same is taken on record, whereas respondent No.2 has filed statement, same is also taken on record, copy whereof supplied to the counsel for the applicant.

Through instant Crl. Misc. Application, applicant prays as under :

- a) This Honourable Court may kindly be pleased to pass an order and direct the respondent No.2 to recover the minor detinue son of the applicant detinue Mohammad Ali @ Fahad Ali from the illegal detention of the respondent No.3 and to produce the detinue before this Hon'ble Court.
- b) That this Honourable Court may kindly be pleased to hand over the custody of the Minor detinue Mohammad Ali @ Fahad Ali to the applicant.

Pursuant to the notice respondent No.4 has brought the detinue Mohammad Ali @ Fahad Ali, aged about two and half years and custody of said baby has been shifted to the applicant.

Learned counsel for respondent No.4 *inter alia* contends that though the applicant is mother but she is insane, therefore, if custody of minor baby is shifted to the applicant that will not be in the welfare of the minor.

Since instant Misc. Application is with regard to the writ of prohibition and in view of case of *Nadia Parveen* reported in PLD 2012 SC 758, wherein it is held that in case if detinue is of tender age and applicant is his mother, writ of *prohibition* can be exercised. Thus, while exercising such jurisdiction custody has been handed over to the applicant who is mother of detinue and with regard to the plea of respondent No.4, he is at liberty to agitate the same by filing guardian ship application before concerned Court.

Misc. Application stands disposed of.

Judge