

ORDER SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

W.P. No.3305/2019
Mst. Sonia Azhar
Versus
Muhammad Azhar Shabbir and others

S. No. of order / proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	30.09.2019	Sardar Muhammad Aftab, Advocate for the petitioner.

Through the instant writ petition, the petitioner, Mst. Sonia Azhar, impugns the order dated 08.07.2019, passed by the Court of the learned Additional District Judge, Islamabad, whereby the petitioner’s application under Section 491 Cr.P.C. for the recovery of her daughter from the custody of respondents No.1 and 2, was dismissed.

2. Learned counsel for the petitioner submitted that the detinue is in the custody of her paternal aunt; that the detinue had been snatched from the petitioner by respondent No.1, who is the detinue’s father; and that the detinue is only one and a half years old and her custody ought to have been given to the petitioner.

3. I have heard the learned counsel for the petitioner.

4. The record shows that the petitioner had filed an application under Section 491 Cr.P.C. for the detinue’s recovery two months after she was alleged to have been snatched by respondents No.1 and 2. It is well settled that an essential prerequisite for the exercise of jurisdiction under Section 491 Cr.P.C. is that the minor/detinue should have been forcibly removed from the lawful custody in the recent past. This essential requirement is lacking in the case at hand. Even the instant petition has not been filed with

promptitude but with a delay of two and a half months.

5. The petitioner is at liberty to approach the Court of the learned Guardian Judge for the custody of her daughter.

6. In view of the above, the instant petition is dismissed in *limine*.

(MIANGUL HASSAN AURANGZEB)
JUDGE

Ahtesham*