

IN THE HIGH COURT OF JUDICATURE OF BOMBAY  
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 561 OF 2016

Takhbal Hakim @ Fajal Shaikh,  
Age 25 years, Occ. Household  
R/o Kambalga, Tq. Shirur Anantpal,  
Dist. Latur at present Omerdara,  
Tq. Shirur Anantpal, Dist. Latur.

..Petitioner

Versus

1. State of Maharashtra

2. Hakim @ Fajal Osman Shaikh,  
Age 30 years, Occ. Agriculture  
R/o Kambalga, Tq. Shirur Anantpal,  
District Latur.

..Respondents

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Advocate for Petitioner : Shri Adgaonkar Ravibhushan P.  
APP for Respondent 1 : Shri Bhagat N.T.  
Advocate for Respondent 2 : Shri Patil Milind

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CORAM : RAVINDRA V. GHUGE, J.  
Dated: June 28, 2016

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ORAL JUDGMENT :-

1. Heard learned Advocates for the respective parties.
2. Rule.
3. By consent, Rule is made returnable forthwith and the petition is taken up for final disposal.

4. The petitioner is aggrieved by the order dated 5.4.2016, passed by the learned Additional Sessions Judge, Nilanga, by which, the Criminal Revision Application No.16 of 2015 filed by respondent No.2 has been allowed.

5. I have heard the learned Advocates for the respective sides at length.

6. It appears from the complaint of respondent No.2, lodged with the Police Station at Shirur Anantpal that he had apprehended the petitioner / wife read-handed in the company of a stranger. From the confession recorded by the petitioner / wife on 23.5.2015 before the concerned Police Station and in the presence of the representative of the Women's Vigilance Cell , it appears that she had invited the said person and was in his company, when the husband saw both of them.

7. Considering the disclosures in the statements of both the parties, which cannot be discussed in this order, it appears that there is no hope of re-conciliation. Learned Advocate for the second respondent submits with what has happened in the past and with what he had seen with his own eyes, there is no way that he would accept the petitioner for residing together in his marital home.

8. I have considered the submissions of the learned Advocates in the light of the order dated 18.12.2015 passed by the learned Magistrate, directing the respondent to hand-over the custody of the elder child Junaid to the petitioner and the impugned judgment of the revisional Court dated 5.4.2016, by which the custody of both the children i.e. Junaid and Muaj be handed over respondent No.2.

9. This Court by its order dated 22.4.2016 has directed status quo to be maintained.

10. It is informed by the learned Advocates that the proceedings under the Protection of Women from Domestic Violence Act, 2005 are pending and the parties can seek mediation.

11. In the peculiar facts of this case, I am of the view that ends of justice would be met by disposing off this petition with continuance of the order dated 22.4.2016 till the decision in the pending proceedings and by allowing the litigating sides to apply before the learned Magistrate in the pending proceedings for a settlement by mediation.

12. In the light of the above, this petition is disposed off by continuing the order of this Court dated 22.4.2016 till the decision in M. A. No. 4 of 2016 by the learned Joint Judicial Magistrate F.C.

Nilanga or till the settlement between the parties, whichever is earlier. Both the parties are, therefore, at liberty to apply to the learned Court for referring the matter to mediation so as to explore the possibilities of a settlement as well as to settle the issue with regard to the custody of the children.

13. Rule is, therefore, discharged.

( RAVINDRA V. GHUGE, J. )

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akl/d