

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL WRIT PETITION NO.2545 OF 2017**

Kunal Dhimant Shah & ors.

...Petitioners

*Versus*

Kinjal Kunal Shah & anr.

...Respondents

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Mr. Vinod P. Sangvikar for the petitioner.

Mr. S. A. Mishra for respondent no.1.

Mrs. Rutuja Ambekar, APP for the respondent - State.  
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**CORAM : PRAKASH D. NAIK, J.**

**DATE : 11<sup>th</sup> AUGUST, 2017.**

**P.C. :**

1. Leave to delete “respondent no.2” from the title of the memo of the petition. Amendment to be carried out forthwith.

2. This petition has been preferred for seeking directions to the trial Court to decide the application for access of minor children preferred by the petitioners in Case No.134/DV/16 which is pending before the Court of Metropolitan Magistrate 65<sup>th</sup> Court Andheri, Mumbai

3. Learned advocate for respondent no.1 tenders an affidavit in reply which is taken on record and marked “x” for identification.

4. Learned advocate for respondent no.1 submitted that respondent no.1 had never objected petitioner no.1 for having access of minor children.

5. Learned advocate for the respondent no.1 submitted that even application for maintenance preferred by respondent no.1 is also pending before the trial Court for a long period of time.

6. Learned advocate for respondent no.1 on instructions submits that respondent no.1 has no objection for allowing the petitioners to visit the house of respondent no.1 at the address where respondent no.1 is residing on 14<sup>th</sup> August, 2017 to celebrate the birth day of two minor children.

7. Learned advocate for the petitioners submitted that the petitioners would like to visit the residence of respondent no.1 on 14<sup>th</sup> August, 2017 at about 3.00 pm. to celebrate birthday of minor children of petitioner no.1. It is submitted that the petitioners be permitted to be in the house of respondent no.1 alongwith minor children for about two hours. It is further submitted that during that period the petitioners will maintain peace and harmony.

8. Considering the submissions advanced by both parties, I pass following order;

**:: ORDER ::**

- (i) The petitioners are allowed to visit residence of respondent no.1 on 14<sup>th</sup> August, 2017 at about 3.00 pm to celebrate the birthday of minor children.
- (ii) The petitioners are permitted to stay at the said place for a period of two hours. The petitioners to maintain peace and harmony during that period.
- (iii) The Metropolitan Magistrate 65<sup>th</sup> Court Andheri, Mumbai is directed to decide the application preferred by the petitioner as well as the application for maintenance preferred by respondent no.1 as expeditiously as possible within a period of three months from today.
- (iv) Petition stands disposed of.

**[PRAKASH D. NAIK, J.]**