

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.4191 OF 2016**

Smt. Smita Vibhas Jadhav & Anr. Petitioners

Vs.

Shri. Vibhas Babanrao Jadhav & Ors. Respondents

Mr. Rajesh A. More, Advocate for Petitioners.

Mr. Abhijeet Kandarkar, Advocate for Respondent no.1

Mr. S.R. Agarkar, A.P.P. for the respondent- State.

Coram : Smt. R.P. SondurBaldota, J.

Date : 8th February, 2017

P.C.

1 This petition challenges the order dtd. 21st September, 2016, by which the application filed by respondent no.1 seeking access to the son is allowed. The application had been filed in the proceedings filed by the petitioner against the respondents under the provisions of the Protection of Women from Domestic Violence Act. Petitioner no.1 contested the application stating that the access to respondent no.1 be limited to once a month i.e. on the second Saturday of the month for two hours in a Children Complex at Swadhar Kendra, Navi Peth, Pune.

2 The trial Court considering the welfare of the child has granted the application permitting respondent no.1

overnight access from Saturday, when the School hours to Sunday night at 11.00 pm. The order directs respondent no.1 to collect the child from the School and bring him back to the residence of petitioner no.1 on Sunday night.

3 On the last date i.e. 10th January, 2017, Mr. Kandarkar had appeared on behalf of respondent no.1 on telephonic instructions and undertaken to file appearance within a period of two weeks. He states that till date he has not been able to secure appearance from respondent no.1 and requests that he be relieved from the undertaking. Mr. Kandarkar is relieved on the undertaking.

4 The only submissions advanced by Mr. More, the learned advocate for the petitioners on the petition, relate not to challenge to the impugned order but to the events subsequent to the order i.e. certain inconveniences faced by the petitioners. He submits that there is no fixed time of respondent no.1 bringing the child on Sunday night, which has been causing inconvenience to her. He also submits that respondent no.1 has been irregular in taking access to the child since the date of the order. If on account of any subsequent event, a change is needed in the order of access, petitioner no.1 needs to approach the trial Court for modification of the order. Hence, the petition is dismissed.

(Smt. R.P. SondurBaldota, J.)