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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(CRL) 3224/2019**

MS. VANSHIKA MAHESHWARI

..... Petitioner

Through: Ms M. Theepa, Mr A. K. Pandey and
Mr Rahul Kaul, Advocates.

versus

STATE & ANR.

..... Respondents

Through: Mr Avi Singh, ASC with Mr
Divyanshu Sharma, Advocates for
State with W/SI Pushpa, PS Anand
Vihar.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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19.11.2019

CRL.M.A. 40550/2019

1. Allowed, subject to all just exceptions.

W.P.(CRL) 3224/2019

2. The petitioner is a minor. She has filed the present petition thorough her father, *inter alia*, praying as under:-

- “a) Issue a writ of mandamus or any other appropriate writ/order/direction thereby directing the respondent No.1 to provide adequate protection to the minor petitioner from the respondent no.2 and also provide fearless atmosphere to the petitioner so that her childhood is protected against exploitation and she can develop in conditions of freedom and dignity;

- (b) Direct the respondent no.2 to shift her residence from the current shared residence to the rented accommodation to be provided by her husband, temporarily till the time of recording of the statement of minor petitioner in the case bearing FIR No. 143/2019 at P.S. Anand Vihar, U/s 354 IPG and 8/9(l),(m)&(p)/1 l(iii) & (vi) of POCSO Act registered against the respondent no.2 and/or.”

3. It is alleged that the petitioner has been victimised by her step mother (respondent no.2). It is alleged that the petitioner had been severely beaten and has also been exploited by respondent no.2. It is alleged that she had inappropriately touched the private parts of the petitioner and forcibly kissed her on her lips.

4. It is stated that the above conduct was discovered at the instance of the paternal aunt (*bua*) of the petitioner. It is also alleged that the petitioner's minor brother has left the home since he was subjected to beatings and cruelty inflicted by respondent no.2. This led the petitioner's paternal aunt (*bua*) to make inquiries from the petitioner, which revealed that the petitioner was illtreated and abused by respondent no. 2.

5. In the aforesaid context, an FIR bearing No.143/2019 under Section of the 354 IPC was registered with PS Anand Vihar and this Court is informed that a chargesheet has already been filed.

6. Respondent no. 2 has also filed a complaint under the Protection of Women from Domestic Violence Act, 2005 (DV Act) against the petitioner's father and the said proceedings are pending. It is her contention that the allegation made against her are false and stem from matrimonial disputes that have arisen between the petitioner's father and her.

7. It does appear from the averments made in the petition that although

efforts have been made by the petitioner's father for removing respondent no.2 from the house, however, he has not been successful in doing so.

8. The petitioner has sought protection from this Court through her father; however, it is seen that the petitioner has been placed in the custody of her father on his clear understanding that he would take all necessary measures to protect the petitioner.

9. On a pointed query made to the learned counsel appearing for the petitioner as to what protection could be afforded to the petitioner, she submits that necessary orders be passed for removing respondent no.2 from the said household. Plainly, the said order cannot be passed in this petition. This is obvious considering that there are matrimonial disputes between the petitioner's father and respondent no.2 and passing an order to this effect, would effectively amount to removing respondent no.2 from her matrimonial home.

10. Having stated the above, there could be no dispute that the petitioner's father is required to ensure that full protection is provided to the petitioner. Plainly, the environment where the petitioner and respondent no. 2 jointly reside cannot offer any such protection. Therefore, the petitioner's father is required to make alternative arrangements to ensure that the petitioner is removed from such an environment and kept in a safe one.

11. Mr Avi Singh, learned ASC has also handed over an order passed by the Child Welfare Committee (CWC) wherein it has observed as under:-

“In view of the above facts and circumstances, the Bench directs the father to keep the children away from the viciated atmosphere by making separate arrangement for himself and his children or to send the children to their extended family members which would be conducive for

their well being till the dispute is settled.”

12. The Court fully concurs with the directions issued by CWC. Clearly, the petitioner is required to be protected. The onus of protecting the petitioner would rest with the petitioner’s father. In terms of the order passed by CWC, he is required to ensure that separate arrangements are made for himself and his children.

13. In view of the above, this Court considers it apposite to direct CWC - District Shahdara & North East to ensure that sufficient measures are taken for protection of the petitioner and the order passed by it is complied with.

14. It is also clarified that if CWC finds the petitioner’s father is unable to take sufficient care of the petitioner, CWC shall take such steps as are necessary for ensuring that the child in question (petitioner) is protected.

15. This Court also clarifies that nothing stated in this order preclude the petitioner’s father from pursuing his remedies against respondent no.2. It would also be open for the petitioner or her relative concerned to place the facts as stated in the present petition before the concerned court examining the action instituted by respondent no.2 under the DV Act.

16. The petition is disposed of with the aforesaid observations.

17. Order *dasti* under signatures of the Court Master.

VIBHU BAKHRU, J

NOVEMBER 19, 2019

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