

**C.O.3704 of 2019
C.A.N. 1 of 2020)
(C.A.N.2 of 2020)**

(Through Video Conference)

**Ritesh Panda
Vs.
Tapas Kumar Nath**

**Mr. Saunak Bhattacharya
Mr. Raghunath Das
..for the petitioner
Ms.Reshmi Roy
Mr. Nilanjan Adhikary
..for the O.P.**

This revisional application at the instance of the father of the minor child is directed against the order dated September 6, 2019 passed by the learned Additional District Judge, 7th Court, Barasat, District North 24 Parganas in Misc. Case No. 179 of 2017(Act VIII of 1890).

The petitioner's wife suffered an unnatural death and the petitioner is facing criminal proceeding initiated against him under Sections 498A and 306 of the Indian Penal Code. Out of the wedlock of the petitioner and his deceased wife, a male child was born who has attained the age of 9 years. The said minor child is mentioned as an witness to the incident of the unnatural death of the petitioner's deceased wife and he appears to be a key witness to the alleged crime. The said child is presently residing with his grand-father and grand-mother, the parents of the deceased mother.

The petitioner has filed an application under Section 25 of the Guardians and Wards Act, 1890(hereinafter referred to as the said Act VIII). In the said proceeding, the learned Trial Court has passed the impugned order rejecting the petitioner's interim prayer for his visitation rights of the minor child. The said order has been challenged in this revisional application.

On February 27, 2020, the learned single judge of this Court passed an order admitting the revisional application. By the said order, it was directed that as a test case, the petitioner might be allowed to get glimpse of the child from a distance. In this regard, it would be convenient to set the operative portion.

“Under such circumstances, in my opinion, it would be prudent to allow the petitioner, Ritesh Panda to take a glimpse of his child from outside the house. The grandparents along with the child will wait in the verandah and the father will take a look at the child upon maintaining safe distance. He shall be accompanied to the residence of the child by his advocate on record appearing in the court below, but no other person will accompany him. No conversation will be permitted. The duration shall not be for more than 10 to 15 minutes. Such arrangement is being made only for the 7th and 21st of March, 2020 between 3:00 to 3:15 p.m. No resistance or aggression from either side should be shown. The learned advocate for the opposite party is also at liberty to be present during such arrangement. It is expected that the respective learned advocates who will be present at the place shall render cooperation with this arrangement which is being made by the Court as the situation is extremely unfortunate. This is an interim arrangement and further orders will be passed on further interaction with the child at a later stage.”

The petitioner has now approached this Court with a fresh application, in effect seeking modification of the said order dated February 27, 2020.

On the other hand, the opposite party/wife raised a strong objection to the maintainability of this revisional application. According to her, when the

impugned order passed by the learned Court below suffered from no illegality, this Court ought to vacate the said order dated February 27, 2020. It is strenuously submitted by the opposite party that the record of the evidence in the pending criminal proceeding against the present petitioner is about to commence in the second week of October, 2020 and the petitioner's sole intention is to influence against the child or to draw his sympathy in the criminal proceeding.

I have considered the materials on record and the arguments advanced by the learned Counsel for the respective parties.

In the present case, none of the parties has challenged the order dated February 27, 2020 passed by this Court. The petitioner has not even filed the contempt application to allege that his in-laws, i.e. grand parents of the minor child are not allowing him to have the benefit of the order dated February 27, 2020.

Considering the facts of this case, I do not find any reason to keep this revisional application pending before this Court.

The revisional application, being C.O.3704 of 2019 is disposed of by confirming the order dated February 27, 2020 which shall remain in force till disposal of Misc. Case No.179 of 2017 pending before

the learned Additional District Judge, 7th Court, Barasat, District North 24 Parganas.

Before parting with the matter, It is clarified that while this order passed in view of the above conduct of the parties and the learned Court below shall be free to decide Misc. Case No.179 of 2017 expeditiously, on merit and without being influenced by this order.

In view of the above order, C.A.N.1/2020 and C.A.N.2/2020 stands disposed of without any order.

(Ashis Kumar Chakraborty, J.)