

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

CRIMINAL APPLICATION (APL) NO. 902 OF 2019

Ku. Payal Chhadi @ Payal Akram Qureshi,
Age 22 years, Occupation - Private Service,
R/o Agragami Convent, Masala, Wardha.

.... **APPLICANT**

VERSUS

1) Akram s/o Maulabashk Kureshi,
Aged about 56 years,
R/o POP Work, R/o Wathoda,
Chandmari Mata Nagar, Nagpur.

2) State of Maharashtra,
through Police Station Officer,
Police Station Lakadganj, Nagpur.

.... **NON-APPLICANTS**

Ms. S.H. Bhatia, Counsel (appointed) for the applicant,
Mr. G.B. Hemke, Counsel for non-applicant 1,
Mr. M.K. Pathan, Addl.PP for non-applicant 2/State.

CORAM : ROHIT B. DEO, J.
DATED : 25th FEBRUARY, 2021

ORAL JUDGMENT :

Heard.

2. The applicant "P" preferred this application under Section 482 of the Code of Criminal Procedure, 1973 (Code) being aggrieved by the judgment dated 20-8-2019 in Criminal Appeal 352/2018 rendered by

the learned District Judge-2 and Additional Sessions Judge, Nagpur, whereby the Superintendent of Government Karuna Mahila Vastigruha, Nagpur was directed to hand over the custody of Ms.“P” to non-applicant 1, who is the stepfather of Ms.“P”.

3. It would be necessary to note the order dated 26-8-2019 passed by this Court, which reads thus :

“This is an application under Section 482 of the Code of Criminal Procedure. By the present application, the applicant is challenging order dated 20.08.2019 passed by learned Sessions Judge, Nagpur in Criminal Appeal No.352/2018, by which the learned Additional Sessions Judge, Nagpur allowed the appeal filed on behalf of non applicant no.1 under Section 17 (6) of the Immoral Traffic (Prevention) Act and directed Superintendent, Government Karuna Mahila Vasatigruha, Nagpur to release the applicant in his favour.

I have heard Ms Bhatia, learned counsel for applicant appointed through High Court Legal Services Sub Committee, Nagpur. Applicant-Ku Payal Chhadi is personally present before this Court along with Mr. Chandrashekhar Narnaware, Probationary Officer and Mrs. Lata Kamble, Councillor, Government Karuna Mahila Vasatigruha, Nagpur.

Initially, an application was moved by non applicant no.1 in the Court of learned Chief Judicial Magistrate, Nagpur. Said was registered as Misc. Criminal Application No.3780/2018. By the said application, non applicant no.1 applied for grant of custody of the victim i.e. the present applicant. The learned Magistrate found that the victim girl was rescued by Police Station, Lakadganj on 06.10.2018 by conducting raid on Sharda Building, Ganga Jamuna area, Nagpur and rescued her from the business of prostitution and she was sent to Government Karuna Mahila Vasatigruha. Learned Magistrate, after having interviewed the victim girl, rejected the application filed on behalf of non applicant no.1.

Against that, an appeal was filed wherein the impugned order is passed.

Applicant-girl is before me. I have, in open Court, interviewed her. She submits that non applicant no.1 is not her real father and he is her stepfather. Her age is 22 years. Therefore, she has every right to decide course of her life. She submitted that she is not willing to go with non applicant no.1. Non applicant no.1 is the person who pushed her in the business of prostitution.

In that view of the matter, issue notice for final disposal to non applicants, returnable on 23.09.2019.

In the meanwhile, there shall be stay to the judgment and order dated 20.08.2019 passed by Additional Sessions Judge, Nagpur in Criminal Appeal No.352/2018.

As per the applicant's wish, initially she shall stay with Government Karuna Mahila Vasatigruha, Nagpur, from where she should be taken by the authorities for her rehabilitation.

Authenticated copy of this order may be given to the learned counsel for the parties."

4. Mrs. Stella William Francis, who is associated with the NGO 'Save The Children India', is present in the Court. Mrs. Stella William Francis has filed an affidavit, which reads thus :

"I, the above named deponent take an oath and Solemn Affirmation as under :

*I, say and submit that I am associated with NGO, "**Save The Children India**" and I am aware of the facts of the present matter. I say and submit that I personally know the applicant Payal Chhadi alias Payal Akram Qureshi. I say and submit that as per the directions issued by this Hon'ble Court on 26-8-2019, the Applicant was directed to stay with Government Karuna Mahila Vastigruha, Nagpur and thereafter, she got the job of a cook at Sister of St. John The Bapist & Marry The*

Queen, Atragami Provincial House, Nalwadi, Mhasala, Wardha. I say and submit that the applicant was happy with her job of a Cook.

I say and submit that the Applicant is aged 23 years and she has informed me on Phone that she has married. She has further informed me that she is living a happy and peaceful married life and that her whereabouts may not be informed either to her mother Salma w/o Akram Qureshi or to her stepfather Akram s/o Maulabashk Qureshi (present applicant No.1), as she has an apprehension that she would again be sent for the business of prostitution by her mother/intervener and her stepfather/non-applicant 1. I say and submit that she has informed me that she is not able to attend the Court today. I say and submit that she has requested me not to disclose her current address and the details of her husband because of the above mentioned apprehension.

Hence this affidavit.”

5. Ms. S.H. Bhatia has also made available for my perusal the photographs of the bride and bridegroom, which I have perused and have returned to Ms. Bhatia.

6. Considering that Ms.“P” is happily married, that she has chosen not to be associated with her mother or her stepfather, and that her freedom of choice to choose her own path in life is unquestionable, this application is allowed.

7. The judgment impugned is set aside.

8. The applicant is an adult and she shall be entitled to live with the person and in the circumstances and at the place of her choice.
9. Needless to say, the application preferred by the mother of the applicant seeking intervention is disposed of.
10. The fees of the learned appointed counsel for the applicant be quantified and paid in accordance with the rules.

JUDGE

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