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CPAN 423 of 2021
In
F.M.A. 343 of 2020
With
I.A. CAN 1 of 2019 (Old CAN 11210 of 2019)
With
I.A. CAN 2 of 2021
With
I.A. CAN 3 of 2021

Suman Sarkar
Vs.
Manisha Dutta Sarkar.

Mr. Rajdeep Bhattacharya for applicant.

Mr. Anindya Bose,
Mr. Diptendu Mandal ... for the alleged contemnor.

Re: CPAN 423 of 2021

This contempt petition has been filed alleging willful disobedience of the order passed by the Division Bench of this Court dated 9th January, 2020. By the said order, the direction issued by the Learned Trial Judge with regard to visitation was modified and that the respondent / mother shall permit the petitioner/ father to visit the child at a designated place. The allegation made by the father is that the order has not been complied with and his wife has to be punished for committing contempt. Pursuant to the directions issued by us earlier, i.e., on 3rd January, 2022, the parties were required to appear through video

conferencing before this Court. However, we find that both the petitioner and the respondent (husband and wife) are present physically in the Court. After going through the facts of the case, we find that the alleged disobedience cannot be stated to be willful and /or wanton. That apart, considering the pandemic situation, it cannot be stated that the respondent / wife can be punished for willfully disobeying the interim order issued by the Division Bench of this Court.

Therefore, we are not inclined to entertain the contempt application. Accordingly, the same is closed.

Re: F.M.A. 343 of 2020

Reference may be made to the order dated 9th January, 2020. During the course of hearing of the contempt petition, which was filed by the husband alleging disobedience of the interim direction, we have suggested the parties to go for mediation. After initial discussion, we find that both the husband and wife are willing to go for mediation qua the issue relating to visitation alone. However, since the appeal being FMA No.343 of 2020 has not been assigned to this Bench, we are not passing any order or direction in this matter.

However, before orders can be passed by the appropriate Division Bench in the appeal, we request the parties to meet through video conferencing in which the

minor child should be permitted to interact with the father through video conferencing or the WhatsApp call at a time and day convenient to the child.

List the appeal before the appropriate Division Bench.

(T. S. Sivagnanam, J.)

(Hiranmay Bhattacharyya, J.)