

Form J(1)

**IN THE HIGH COURT AT CALCUTTA  
Criminal Revisional Jurisdiction  
Appellate Side**

**Present :**

**The Hon'ble Justice Bibek Chaudhuri**

**IA No: CRAN/3/2022**

**In**

**C.R.R. 1732 of 2021**

**Anubrata Saha**

**Vs.**

**Payel Chatterjee & Anr.**

**For the petitioner : Mr. Apalak Basu, Adv.  
Mr. Pratik Ghosh, Adv.**

**For O.P. No.1 : Mr. Mayukh Mukherjee, Adv.  
Mr. Debartha Chakraborty, Adv.**

**Special Officer : Ms. Sumitra Das, Adv.**

**For the State : Mr. Debabrata Chatterjee, Adv.  
Ms. Manisha Sharma, Adv.**

**Heard on : 20.07.2022**

**Judgment On : 20.07.2022.**

**Bibek Chaudhuri, J.**

Marriage is considered to be the holy reunion between a man and a woman, dedicating their lives, loyalty and recognizing their own responsibility to each other. Sometimes, the obligations of marriage that are expected from both the husband and wife are not met by either or the both. This causes a tear in the very fabric of the

marriage, rendering it useless, causing marital discord. But both the husband and wife forget about another vital aspect that comes with marriage – the responsibility of giving their children a good and pleasant environment to grow. And marital discord restricts these basic requirements of the children who's lives are crippled and get traumatized by the dilemma between their parents. And more than any one else broken marriage destroys the lives of children.

Marriage of the petitioner with the opposite party No.1 was solemnized in the year 2009. In the said wedlock, the opposite party No.1 gave birth to a girl child in the year 2012. Subsequent to the birth of the child, disputes and differences cropped up in the lives of the petitioner and the opposite party, leading the opposite party to file an application under Section 12 and other coordinate provisions of the Protection of Women from Domestic Violence Act on 16<sup>th</sup> June, 2021. The said proceeding under PWDV Act was registered in the Court of the learned Chief Judicial Magistrate, Alipore as Case No.C.1132 of 2021.

In the said proceeding, the opposite party No.1 prayed for *ex parte* interim custody of her minor daughter under Section 21 of the said Act. The learned Chief Judicial Magistrate granted the prayer made by the opposite party No.1 and interim *ex parte* custody order of the minor child was passed in favour of her. Subsequently, upon

an application filed by the petitioner /father, the learned Chief Judicial Magistrate passed an order on 14<sup>th</sup> July, 2021. The learned Chief Judicial Magistrate passed the following order:-

*"Considering all these aspects, the father of the minor child is permitted to talk with his daughter twice in a week over phone calls and through video calls."*

The opposite party No.1 was directed to allow the minor child to talk to her father over phone and video calls twice in a week."

The petitioner challenged the said order under Section 29 of the PWDV Act vide Criminal Appeal No.57 of 2021 and while admitting the appeal, the learned Sessions Judge-in-Charge, South 24-Parganas passed the following order :-

*"Heard both sides. Perused the impugned orders dated 14.07.2021 and 17.06.2021. Having considered the entire circumstances and the need of the child, which is of paramount importance, the impugned order passed in case no. C-1132/2021 dated 14.07.2021 and 17.06.2021 be stayed only to the extent that the minor child is for the time being permitted to talk with his daughter twice in a week, i.e. on Tuesdays and Fridays through video calls between 8 p.m. to 9 p.m. for at least 15(Fifteen) minutes. The call for which should be made by the father and each parties should file compliance after every 15 days on affidavit. The remaining part of the impugned orders shall remain unchanged. This interim order, however shall not bear any consequence upon the adjudication or final verdict of the case."*

The father has challenged the above-mentioned order before this Court in revision. A Co-ordinate Bench while admitting the instant revision vide order dated 24<sup>th</sup> September, 2021 passed the following order:-

*"The petitioner will be entitled to meet and interact with the child twice a week for one hour in presence of the learned Special Officer, appointed by this Court. Such visit will take place on every Wednesday and Sunday between 5 p.m. to 6 p.m. until further order."*

In the said order, Ms. Sumitra Das, learned Advocate practicing in this Court was appointed as a Special Officer to facilitate the visit of the petitioner to his daughter, where the child is presently staying with her mother.

The learned Special Officer has been scrupulously complied with the said order in order to facilitate the father to meet with his minor child.

Subsequent to passing of the above-mentioned order, there was a development. It is alleged by the learned Counsel for the petitioner that taking opportunity of having custody of the said minor girl, the opposite party No.1 being her mother successfully tutored her not to meet with her father and she developed a sense of hostility against her father.

This is apparent from the documents submitted by the learned Advocate for the petitioner when the opposite party No.1 refused to accept a sum of Rs.10,000/- and returned it with a note that the minor child of the parties who is now aged about 9 years did not want

to accept the said money to be spent for her development. This goes to suggest prima facie that the mother has been able to change a spotless mind of the child by a sense of distrust and ill-feeling, if not enmity against her father.

For the reasons stated above, this Court is of the view that the order made by a Co-ordinate Bench on 24<sup>th</sup> September, 2021 ought to be made absolute while disposing of the instant revision.

The parties are directed to scrupulously follow the order dated 24<sup>th</sup> September, 2021. The learned Special Officer is requested to facilitate the parties so that the petitioner would get an opportunity to meet his minor child as per the order dated 24<sup>th</sup> September, 2021.

Remuneration fixed by the learned Coordinate Bench vide order dated 24<sup>th</sup> September, 2021 is also made absolute.

This order will remain in force till the disposal of the criminal appeal No.57 of 2021 pending before the learned Judge, South 24-Parganas at Alipore.

The instant revision, is, thus, **disposed of**.

**(Bibek Chaudhuri, J.)**

**Mithun De/  
A.R. (Ct).  
SI No.144.  
D/L.**