

DL. May 18,  
4. 2022

F.M.A. 520 of 2021

Sri Tushar Kanti Das  
Vs,  
Kajal Saha

Mr. Debjyoti Dutta,  
Mr. Amritan Mandal,  
Mr. Shamit Sanyal,  
Ms. Priyakshi Banerjee,  
Mr. Aditya Mandal,  
Ms. Ananya Chakraborty,  
...for the appellant.

Mr. Anirban Ray,  
Mr. Raja Saha,  
Mr. Debasish Ghosh,  
...for the State.

Mr. Srijib Chakraborty,  
Mr. Sunny Nandy  
Mr. Amit Chowdhury,  
Ms. Sushmita Kumari Singh,  
...for the intervenor.

The reports filed by the Child Welfare Committee, Howrah; the Clinical Psychologist, District Hospital, Howrah; the Counselor, Juvenile Justice Board, Howrah Rehabilitation Psychologist; and the District Child Protection Officer, Howrah, are taken on record. The reports clearly suggests that in view of emotional attachment being created towards her father, Ms. Ally may be now handed over to her biological father. she is presently pursuing her studies, as reported by the Clinical Psychologist, Nava Jeevan Home, which had taken good care of the child. The report is based on SIR (Home visit) from which it is clear that home environment is quite conducive for the child to grow and the family members of Tushar Kanti Das are very keen to have her in the

family fold. She has, in the meantime, developed a good relation with her extended family members as SAA make a regular arrangement to make video calls with her. The father is present in court.

The Child Welfare Committee, Howrah, has made the following recommendations :-

“In view of the above, it is recommended that at this stage the child to be handed over to her biological father immediately as she is now mentally prepared to settle to her own home. It is also important to monitor her counselling report while she will be restored quarterly for at least one year down the line.

Ally, being an extremely intelligent child, is aware that interaction with carer who had looked after her is not an option in long run. Meeting with her is not considered appropriate under the circumstances as, though it may be gratifying to the carer, it will certainly not be beneficial to Ally. We are considering the best interest of the child and it is better she be allowed to develop a strong bond with her father, grandmother which will be beneficial to her in the long run.”

The aforesaid recommendations are accepted. Accordingly, we direct the Superintendent, Nava Jeevan Home, to hand over the child, namely, Ally, to her biological father. We request the Co-ordinator, Nava Jeevan Home, to visit the child fortnightly for a period of six months or for such a longer period as may be advised by the District Child Protection Officer, Howrah

and Social Worker in-charge of the district of North 24-Parganas, as we feel that it will help the child to grow and it will be in the best interest of the child.

Mr. Srijib Chakraborty, learned advocate representing the intervenor, has submitted that during the pendency of the appeal and the application for custody of the child filed by the intervenor, a first information report has been lodged by the appellant.

Ms. Julie Roy, the intervenor, is added as a party respondent in this appeal in place and stead of Kajal Saha, since deceased, as she was allowed to retain the custody of the child by a co-ordinate bench on November 17, 2021. The department is directed to carry out necessary amendment in the cause title of the memorandum of appeal and the connected application.

We feel that when the division bench is in seisin over the custody of the child, the lodging of first information report alleging abduction of the female child was most inappropriate and undesirable regard being had to the order dated November 17, 2021. However, we cannot decide the legality and/or validity of the initiation of the said proceeding in this jurisdiction. It will be open to the intervenor to take appropriate steps in accordance with law.

With the aforesaid directions, the appeal and the connected applications being CAN 1 and 2 of 2020 stand disposed of without, however, any order as to costs.

dns

**( Ajoy Kumar Mukherjee, J. )**

**( Soumen Sen, J. )**

