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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

WRIT PETITION NO.1557 OF 2021

Mrs. Mansi Paresh NandgaonkarPetitioner
versus
The State of Maharashtra and ors.Respondents

Mr. Shrijeet Raorane i/b. Mr. Vijay Raorane, advocate for the petitioner.
Ms. Sangeeta D. Shinde, APP for the State.
Mr. Shreeyansh R. Mithare, advocate for respondent Nos. 2 to 4.

**CORAM : PRASANNA B. VARALE &
ANIL S. KILOR, JJ.**

DATE : 1st FEBRUARY, 2022.

P.C. :

1. The present petition is filed at the instance of the petitioner with a prayer clause (a), which reads thus :

“(a) To issue a writ of habeas corpus under Article 226 of the Indian Constitution thereby directing the Respondents to reunite the Petitioner with her child and thereby put an end to the mental cruelty which the Petitioner is continuously suffering.”

2. Perusal of the petition shows that the marriage between the petitioner and respondent No.2 – Paresh Kishor Nandgaonkar was solemnized on 29th October, 2007. On 5th April, 2012, the couple was

blessed with a child named Master Mayank Nandgaonkar. It seems that there was some matrimonial discord between the parties which lead the petitioner to lodge report/FIR in local police station. It may not be necessary for us to refer to other facts in detail. Suffice to say that the bitterness between the parties lead to filing of parallel proceeding in the competent Court and divorce petition was filed before the Family Court. Now, during the pendency of the present petition, it was brought to the notice of the Division Bench of this Court that the parties are exploring the possibility of amicable settlement of dispute. In the backdrop of this statement, an order was passed by the Division Bench on 12th August, 2021 and the same reads thus :

“1. There is a consensus between the learned Counsel appearing for the petitioner and the contesting Respondent Nos.2 to 4 that the parties will explore the possibility of amicable settlement of the dispute. Learned Counsel appearing for Respondent Nos.2 to 4, on instructions, submitted that the said respondents are ready to give online access of the child to the petitioner through video conferencing between 7pm to 8pm everyday and physical access on every Sunday between 5pm to 8pm, till the next date. Statement accepted.

2. Learned Counsel appearing for the petitioner submits that in due adherence to the statements made by the learned Counsel appearing for Respondent Nos.2 to 4, the petitioner will confine to the timings fixed for her access to the child through video conferencing and physically.

3. *Both the parties shall restrain themselves and shall not create any evidence of such visits and also treat each other with respect.*

4. *S.O. to 9th September, 2021."*

3. Today, when a query was put to the learned counsel for the petitioner as well respondent Nos.2 to 4, learned counsel were fair enough to submit before this Court that the process of settlement is still going on. The talks between the parties are going on and though the terms of the settlement are not yet finalized, the parties hope for positive outcome. It was also submitted before this Court that during the pendency of the maintenance petition before the Family Court, the application/custody petition No.4944 of 2021 was also filed before the Family Court. Now all these above referred facts lead to the only conclusion that corpus claimed in the present habeas corpus petition is well within knowledge of the petitioner and parallel proceeding in the nature of custody petition of the child is pending before the competent Court of jurisdiction. At the cost of repetition, we state that by an order dated 12th August, 2021, the petitioner was granted an access to the child through virtual mode as well as physical mode on certain stipulation of timing. By this very order dated 12th August, 2021, both the parties were directed to treat each other with respect and were also directed to maintain a reasonable restraint.

4. Considering all the above factors, we are of the opinion that the purpose of the petitioner in approaching this Court is served. There is no justifiable reason for keeping the petition pending in this Court. In case, the parties are exploring the possibility of an amicable settlement, they are certainly at liberty to approach the competent Court where the parallel proceedings are pending and submit the terms of their settlement and, on such terms of settlement, the competent Court of jurisdiction would pass an appropriate order.

5. The interim arrangement made in the order dated 12th August, 2021, to continue till the competent Court where the parallel proceedings are pending, decide the proceedings finally or passes an order in the Custody Petition No.4944 of 2021.

6. With the above observations, the petition is disposed of.

(ANIL S. KILOR, J.)

(PRASANNA B. VARALE, J.)