

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL WRIT PETITION NO. 3326 OF 2022**

Shanti Sushil Gupta

... Petitioner

V/s.

The State of Maharashtra & Ors.

... Respondents

Mr. Anil N. Bugde for Petitioner.

Mr. A. S. Pai, PP for State.

Ms.Rani J. Baisane, Chairperson, (CWC, Thane).

Ms.Pallavi Jadhav, Protection Officer (DCPU, Thane).

Mr.Prithviraj Ghorpade, PI (Crime), NRI Sagari Police Station, Navi Mumbai.

Ms.Chaitrali Sable, WAPI, Women API, Turbhe Police Station, Navi Mumbai.

Mr.Ganesh Jadhav, API, NRI Sagari Police Station, Navi Mumbai.

**CORAM : A.S. GADKARI AND
MILIND N. JADHAV, JJ.****DATE : 26th September 2022.****PC. :**

1. Heard Mr.Bugde, learned Advocate for Petitioner and Mrs.Pai, learned PP for the State. Perused record.

2. Record indicates that, in pursuance of Order dated 13th September 2022, the statement of juvenile has been recorded by the learned Judicial Magistrate First class, Belapur (7th Court) on 14th September 2022. The said fact has been recorded in Order dated 16th September 2022. Record further discloses that, in pursuance of Order dated 19th September 2022, the learned Judicial Magistrate First Class, Belapur (7th Court) has again recorded

statement of juvenile under Section 164 of Cr.PC.. The original statement recorded under Section 164 of Cr.PC. are produced before this Court in a sealed envelops. Under our directions, the Sheristedar of this Court opened the said envelops. We have perused both the statements of juvenile. The original statements of juvenile recorded under Section 164 of the Cr.PC. dated 14th September 2022 and 23rd September 2022 are handed over to Shri Prithviraj Ghorpade, Police Officer (Crime), NRI Sagari Police Station, Navi Mumbai.

3. Record further indicates that, by an Order dated 8th August 2022 passed by the Child Welfare Committee, District Thane, the custody of the juvenile was handed over to the Petitioner, who is her biological mother. It appears that, the custody of the said juvenile was thereafter again taken by the Child Welfare Committee on the grounds that, the undertakings given by the Petitioner were not complied with in its proper sense and for the recording of statement of juvenile under Section 164 of Cr.PC. in the present crime i.e. CR No.206 of 2022 registered with NRI Sagari Police Station, Navi Mumbai was imperative.

It is the contention of the learned Advocate for the Petitioner that without following due procedure of law the custody of the juvenile was taken by the Child Welfare Committee, Thane. He further submitted that, for recording statement of juvenile under Section 164 of Cr.PC. her detention in Children's Home was not necessary. We find substance in the said submission.

4. Be that as it may.

As the statement of juvenile under Section 164 of Cr.P.C. is now recorded and her further presence before the Investigating Agency/Officer is not necessary, it will be appropriate to hand over the custody of the juvenile i.e. daughter of the Petitioner in favour of the Petitioner with immediate effect.

5. The Chairperson of Child Welfare Committee, District Thane, Smt.Rani J. Baisane and the District Child Protection Officer, Smt.Pallavi Jadhav are personally present in the Court and they submitted that, after complying with the necessary formalities, custody of the juvenile will be handed over to the Petitioner tomorrow, i.e. 27th September 2022 by 11.00 am.

6. The Petitioner to personally remain present tomorrow i.e. 27th September 2022 by 11.00 am at the Office of Child Welfare Committee District Thane at Ulhasnagar for taking custody of the juvenile.

7. With the aforesaid directions, Petition is disposed off.

8. Present Order is passed in open Court and therefore the Chairperson of Child Welfare Committee, Thane District and the District Children Protection Officer, Thane shall not insist upon the Petitioner to produce copy of the present Order.

[MILIND N. JADHAV, J.]

[A.S. GADKARI, J.]