

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH : NAGPUR.

CRIMINAL WRIT PETITION NO. 522/2021
(Shrikant S/o Shankar Dabhane Vs. Shweta W/o Shrikant Dabhane)

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr. D. V. Chavan, Advocate for petitioner.
Dr. (Mrs.) R. S. Sirpurkar, Advocate for respondent.

CORAM :- AVINASH G. GHAROTE, J.

DATED :- 10.03.2022

Heard Mr. Chavan, learned counsel for the petitioner and Dr. (Mrs.) Sirpurkar, learned counsel for the respondent.

2 The petition challenges the order dated 08.04.2021, passed by the learned JMFC, Kalmeshwar in proceedings under Section 12 of the Protection of Women from Domestic Violence Act ('D.V. Act') in which while allowing the application under Section 23 of the D.V. Act, directing the custody of the child Purvit aged about two and half years as of now, to be handed over to the respondent/mother, the petitioner was directed to file an application for visitation rights independently. The learned Sessions Court has dismissed the appeal vide judgment 05.07.2021

3. Since the petition arises out of an interim order in proceeding pending before the learned JMFC

under the DV Act, though the mediation has failed, the learned counsel for the parties were requested to get back to this Court on the issue of visitation by the petitioner/father in view of which the respondent/wife, has tendered pursis across the bar dated 07.03.2022 indicating access terms, which taken on record and marked as 'X' for identification in which it is stated that the physical access of the child would be permitted to the petitioner/father on every second and forth Saturday between 02.00 p.m. to 05.00 p.m. at three places out of which the petitioner has chosen to have access at Municipal School No. 3 Kalmeshwar. The access terms also indicate access to the child every First and Third Sunday between 4.00 p.m. to 05.00 p.m. by Video Call. Mr. Chavan learned counsel for the petitioner, makes a request that this could be increased, considering which Mrs. Sirpurkar, learned counsel for respondent states that this can be done on every Thursday and Sunday in between 04.00 pm to 05.00 pm in addition to the physical access. Considering the willingness of the respondent/mother to grant access, without going into the merit of the matter, it is directed as under.

(I) The respondent/mother shall grant physical access of the child Purvit to the petitioner on every second and fourth Saturday of each month at Municipal School No. 3, Kalmeshwar between 12.00 noon to 04.00 pm.

(II) The petitioner shall have virtual access by way of video call to the child on every Thursday and Sunday between 04.00 pm to 05.00 pm.

(III) It is made clear that these are only direction of an interim nature since the petition itself questions interim order and any final order regarding the access, visitation right and custody shall be subject to the final result of the proceeding pending before the learned JMFC.

(IV) Any application made for interim custody of the child on account of festival shall be independently considered by and decided by the learned JMFC.

(V) Petition stands disposed of in above terms.

(VI) Learned JMFC shall decide the DV proceeding as far as possible within a period of one year from today.

(AVINASH G. GHAROTE, J)

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