

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CRIMINAL WRIT PETITION NO. 878/2021

Ku. Shrushti Ajay Dhanvijay thr Natural Guardian Mother Aarti Ajay Dhanvijay
...vrs... State of Maharashtra

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

Court's or Judge's orders

Mr. R.M.Patwardhan, Advocate for the petitioner
Ms. Mayuri Deshmukh, APP for Respondent/State

CORAM : AVINASH G. GHAROTE, J.

DATE : 15/03/2022

1] Heard Mr. Patwardhan, learned counsel for the petitioner and learned APP for respondent/State.

2] The petition seeks to challenge the order dated 2.8.2021 passed by the Child Welfare Committee, Nagpur, dismissing the application of the petitioner for the custody of the minor child and the judgment by the learned Sessions Court dated 14.10.2021, dismissing the appeal.

3] Mr. Patwardhan, learned counsel for the petitioner by placing reliance upon Sections 90, 91 and 99 of the Juvenile Justice (Care and Protection of Children) Act submits that the statement and wishes of the child have not been taken into consideration and so also the factor that the mother, who is the applicant, is ready to take care of the child, has also not been considered. It is further submitted

that the fact that the mother has remarried, is of no consequence, as that does not disentitle her from taking care of the child.

4] Learned APP opposes the application and submits that the child has been pushed into the flesh trade due to the apathy on part of the mother which itself is a singular factor disentitling the mother from claiming custody.

5] On 17.5.2021, the child was found in the flat of the accused in which a bogus customer was sent by the police authority to trap one Archana Vaishanpayan who was claimed to have been earning her livelihood by luring minor girls in the business of prostitution. The child in question was found in the premises owned by the aforesaid lady in the trap conducted by the police authority, as a result of which the child has been sent to Karuna Vasatigruh for her protection and care, where she is lodged since then. It is undisputed that though the person who has made the application dated 21.6.2021 for release of the custody of the child in her favour, claims to be her mother, it is not disputed that the mother as well as the father of the child had remarried and the child was in the custody of the grandmother from whose custody she has been lured into the flesh trade. The order dated 2.8.2021 has taken into consideration the reports placed on record by the concerned police station; by the Karuna Mahila

Vasatigruh as well as the House Enquiry Report dated 6.7.2021, all of which are negative and therefore, has opined that the custody of the child ought not to be given to the applicant/mother. The learned Sessions Court has also taken into consideration the aforesaid reports and the fact that the child was never in custody of the mother, after her remarriage. There is also nothing on record to indicate that after her remarriage, the mother was taking due care and attention of the child in question, though at times it is stated in the report (page 53) that the child stayed with the mother.

6] Considering the above position, I am not inclined to interfere in the petition, as the factors on record indicate that the interest of the child would best be served and protected by continuing her custody with the Karuna Mahila Vasatigruh. The petition is therefore dismissed.

JUDGE

Rvjalit