



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

REVISION APPLICATION NO. 399 OF 2024

Seema Prashant Koli

...Applicant

vs.

Prashant Shivaji Koli

...Respondent

Mr. Prajakt Arjunwadkar	Advocate for the Applicant
Ms. S. E. Phad	APP for the Respondent-State

CORAM : S. M. MODAK, J.

DATE : 06th AUGUST 2024

P. C. :-

1. Heard learned Advocate Shri Arjunwadkar for the Applicant/mother/wife of the Respondent No. 1.
2. She applied under Section 97 of the Code of Criminal Procedure before the Court of Judicial Magistrate, First Class Jaysingpur, Kolhapur. Her grievance was on 17/04/2024, Respondent No. 1 took forcible custody of the minor-Rajveer from mother. The trial Magistrate findings was in favour with the Applicant-Mother and directed the husband to hand over custody of the child to the Applicant. It is as per Order dated 26/04/2024.

3. When husband filed revision application, learned Additional Sessions Judge, after hearing the parties was satisfied about contention of husband-Respondent No. 1 and directed the Applicant-wife to hand over the custody to the husband. This was as per Order dated 24/05/2024. The custody was immediately handed over to the father and now the child is with father.

4. Learned Additional Sessions Judge while passing that order was influenced by two factors :-

(a) Averments made by the husband in the divorce petition about custody of the minor son. He has pleaded that the child was with him earlier to 17/04/2024.

(b) The observations of this Court and the Hon'ble Supreme Court in respect of applicability of provisions of the Section 97 of the Criminal Procedure Code in case of dispute in between the spouses about custody of the children.

5. Learned Advocate Shri Arjunwadkar relied upon the observations in case of Anjali Anil Rangari Vs. Anil Krupasagar Rangari and Others¹.

1 (1997) 10 SCC 342

6. Let notice be issued before admission to Respondent Nos. 1 to 3 returnable on 20th August 2024. Hamdast is allowed.
7. Matter be kept on **20th August 2024.**

[S. M. MODAK, J.]