

Prasad Rajput
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION NO. 399 OF 2024

Seema Prashant Koli

.. Applicant

Versus

Prashant Shivaji Koli & Ors.

.. Respondents

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- Mr. Prajakt Arjunwadkar a/w Mr. Raj S. Satam, Mr. Dhananjay A. Utture and Ms. Jui B. Gharat, for Applicant.
- Mr. Dhiraj Patil, for Respondent No. 1 & 3.
- Ms. D.S. Krishnaiyer, APP for the State.

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CORAM : MILIND N. JADHAV, J.

DATE : DECEMBER 10, 2024

P.C.:

1. Heard Mr. Arjunwadkar, learned Advocate for the Applicant and Mr. Dhiraj Patil, learned Advocate for Respondent No.1 & 3.

2. Though this matter was extensively argued before me on previous dates, it was adjourned for today to enable Respondent No.1 to take appropriate instructions and apprise the Court. Accordingly, Mr. Patil, learned Advocate for the Respondent No.1 has taken instructions and accordingly made certain suggestions before the Court.

3. Ms. Krishnaiyer, learned APP would submit that in terms of decision of Hon'ble Supreme Court in case of *Mausami Moitra Ganguli V. Jayant Ganguli* ¹ under any circumstances the Court will have to

¹(2008) 7 SCC 673

bear in mind the paramount consideration of the welfare of the child in any given case and in whose custody the same shall be best served.

4. Without delineating on the Application on merits in respect of order passed by the Sessions Court in Appeal or the order passed by the learned Trial Court, in view of the statement made by Respondent through his advocate that he shall hand over custody of the child namely Master Rajveer, Age 4 years to the Applicant (mother) in her house at Jaysingpur, Tal. Shirol Dist. Kolhapur by 6:00 pm tomorrow, no order is passed on merits. Incidentally, the Respondent is present before me in the Court and he would request the Court that it would take some time to reach Kolhapur and in that view of the matter he shall hand over custody of the child to Ms. Seema Koli i.e. the Applicant in her house at Jaysingpur, Tal. Shirol Dist. Kolhapur. Needless to state that custody petition filed by Respondent in the Family Court, Kolhapur shall be decided by the said Court as expeditiously as possible and in any event within a period of 6 months from today by keeping in view all contentions of the parties. Both parties have agreed to this arrangement by consent before me today. I also wish to clarify that while deciding the custody petition, Family Court, Kolhapur shall not be influenced by any of the observations and findings passed by the Appellate Court in the impugned order which is the subject matter of present revision as also findings and observations in the learned Trial Court's order which was set aside by

the impugned order. This Court has not given its imprimatur on the merits of the matter in CRA, which shall be noted by the Family court while deciding the custody petition. All contentions of both parties including Respondent are kept open.

5. In the interregnum if parties desire to go for mediation as suggested by learned Advocate Mr. Patil, they are at liberty to approach a mediator by consent and resolve their dispute amicably. Since Respondent is personally present before Court today and agrees to the above directions, the Revision Application stands disposed of in above terms.

6. In the interregnum when the custody petition is being decided Respondent shall be entitled to visitation rights to meet Master Rajveer at any nearby place near the Applicant's house in Jaysingpur which shall be decided mutually by parties. The Applicant shall cooperate with visitation of Respondent considering that he is the biological father and allow such visitation with flexible terms/time and not make any nuisance or mischief during visitation. Equally the family members of Applicant are also directed by the court to ensure that visitation of Respondent to meet his son is duly arranged. Visitation rights in the interim decided by the Family Court as per its order dated 17.09.2024 shall stand continued in the interregnum.

7. With the above directions, Revision Application stands disposed.

P.R. Rajput

[MILIND N. JADHAV, J.]