IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CRIMINAL APPLICATION (FOR MAINTENANCE) NO. 5541 of 2024

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REENA BIJU W/O BIJU VATAKKUMTHALA SEBASTIAN

Versus

STATE OF GUJARAT & ORS.

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Appearance:
MS SHRUTI UMESH BABU(12568) for the Applicant(s) No. 1
MR SHRIJIT G PILLAI(7937) for the Applicant(s) No. 1
MR DARSHAN M VARANDANI(7357) for the Respondent(s) No. 3
NOTICE SERVED THRU CONCERNED POLICE STATION for the Respondent(s) No. 2
MS KRINA CALLA, APP for the Respondent(s) No. 1

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CORAM:**HONOURABLE MR. JUSTICE HASMUKH D. SUTHAR**

Date : 08/07/2025
ORAL ORDER

Leave to delete respondent No.2.

By way of present petition under Articles 226 and 227 of the Constitution of India read with section 482 of the CrPC, the petitioner has prayed for an appropriate writ to quash and set aside the order dated 14.03.2024 passed by the learned Family Court in PH 18/2024 and also to dispense physical presence of the petitioner during filing and at later stages and further to allow the petitioner to appear through video conference before the learned Family Court.

Heard learned advocate for the petitioner, learned APP for the respondent No.1 – State and learned advocate Mr. Darshan Varandani for respondent No.3.

The short issue involved in the present petition is that the petitioner is unable to appear physically before the learned Family Court and she had made a request to constitute proceeding under Section 125 of the CrPC before the Family Court and to allow her to appear through virtual mode for preliminary hearing. The said request came to be turned

down against which the petitioner has approached this Court.

Perusing the record, it appears that the petitioner could not remain present or mark her presence physically before the learned Family Court and therefore, she had made a request to allow her to appear through virtual mode which request ought to have been considered and petitioner ought to have been permitted through virtual mode though said request is not acceded to in view of the provision of section 13 of the Family Courts Act, 1984 as presence of parties is mandatory. It appears that the learned Family Judge has adopted a hyper-technical view. Presence means either 'in person' or through 'virtual mode', he has to ascertain the facts of litigation and the applicant or complainant shall have liberty to appear through virtual mode or in person.

In view of the above discussion, present petition is allowed. Impugned order dated 14.03.2025 passed by the learned Family Court in PH 18/2024 is hereby quashed and set aside and matter is sent back to learned Family Court, Ahmedabad to consider afresh the application of the petitioner and permit the petitioner to appear through virtual mode and learned Family Judge is directed to proceed with the matter in accordance with law after marking her presence / appearance through virtual mode. Present petition is disposed of in aforesaid terms.

(HASMUKH D. SUTHAR, J.)

Ajay

Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: AJAY CHANDRAN MENON(HC00939), PRINCIPAL PRIVATE SECRETARY, at High Court of Gujarat on 08/07/2025 18:27:58