



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 1732 OF 2025

Jyoti Raju Kathe and Another

..PETITIONERS

VERSUS

Raju Sitaram Kathe and Others

..RESPONDENTS

....
Mr. A.S. Gandhi, Advocate for petitioners

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CORAM : ABHAY J. MANTRI, J.
DATE : 19th DECEMBER, 2025

PER COURT :

1. Heard learned counsel for the petitioners and perused the impugned order and the record.
2. The petitioners assail the order dated 27th October, 2025, passed by the learned Judicial Magistrate First Class, Rahata (for short, '*the Magistrate*'), below Exhibit 17 in P.W.D.V.A. No. 8 of 2023, whereby the learned Magistrate allowed the application and permitted the Respondent No.1 – husband to meet his daughter, i.e. Applicant No.2 - Rishita, at the Mediation Centre, Taluka Legal Services Committee, Rahata in the presence of the Protection Officer on third Saturday of every month till decision of the main petition, and therefore, preferred this petition.
3. The main grievance of learned counsel for the petitioners is that the application filed by Respondent No.1 under Section 21 of the Protection

of Women from Domestic Violence Act (for short, '*D.V. Act*') is not maintainable. Also, the learned Magistrate is not empowered to pass the impugned order; therefore, he urged that the same be set aside.

4. A bare perusal of Section 21 of the D.V. Act, I do not find substance in his contention as Section 21 deals with the custody of the child, which also empowers the Magistrate to try and entertain the application filed on behalf of the aggrieved persons or by the respondent, i.e. the husband. Even assuming that the Respondent No.1 – husband is not an aggrieved person, but certainly the Applicant No.2, who is the daughter, can be an aggrieved person, and the husband could have filed the application on her behalf. Therefore, it cannot be said that the husband cannot move an application on her behalf. Apart from that, the proviso indicates that if the learned Magistrate finds that the visit of the father may be harmful to the interest of the child, then the Magistrate may refuse such visit. That itself denotes that the learned Magistrate is empowered to pass the impugned order, and therefore, I do not find substance in his contention in that regard.

5. Perused the impugned order. In paragraphs nos. 4 to 6, the learned Magistrate has dealt with the same and held that the respondent has a remedy to have visitation rights by filing an application to that effect. It further observed that the children should not be deprived of the love and affection of their mother as well as their father, without sufficient cause and also observed that for the welfare of the child, it is a paramount consideration

to permit the father to visit his child, and therefore, passed the impugned order. I do not find any illegality or perversity in the impugned order to interfere in it in the writ jurisdiction. That being so, the petition, being devoid of merits, stands dismissed.

(ABHAY J. MANTRI, J.)

SSD