

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Debangsu Basak

And

The Hon'ble Justice Md. Shabbar Rashidi

WPA (H) 109 of 2025

Smt. Tumpa Bairagya

Vs.

The State of West Bengal & Ors.

For the Petitioner : Mr. Soumya Banerjee, Advocate
Ms. Sucheta Banerjee, Advocate

For the State :Mr. Swapan Kumar Dutta, Ld. Sr. Advocate &
Govt. Pleader
Mr. Biplab Guha, Advocate
Mr. Tapas Kumar Das, Advocate

Hearing & Judgment on: **January 20, 2026**

DEBANGSU BASAK, J.:-

1. Petitioner before us is the mother of a minor. Petitioner seeks custody of such minor.
2. Minor is presently with her father.
3. A criminal case was instituted at the behest of the petitioner on March 30, 2023. Titagarh Police Station registered such criminal case under Sections 498A/323/406/506 of the Indian Penal Code having Titagarh Police Station Case No.170/23 dated March 30, 2023.

4. During such investigations, the minor was produced before the Chairperson of the Child Welfare Centre, Barasat, North 24 Parganas on April 12, 2023. On April 24, 2025, petitioner submitted a self-declaration before the Officer-in-Charge of the local Police Station, where she stated that, she was unwilling to take the stridhan articles from her matrimonial house.
5. Police completed investigation and submitted final charge sheet on April 28, 2023 under Sections 498A/323 of the Indian Penal Code.
6. On July 23, 2025, the father of the petitioner submitted a written complaint against private respondents. Such complaint was registered under Sections 85/74/351(2)/79/3(5) of BNS & 12 of POCSO Act.
7. In course of investigations of the second case, the minor was sent for medical check up. The minor recorded her statement under Section 183 of the BNSS on July 23, 2025. The custody of the minor was made over to her grandmother being the respondent no.8 by the Child Welfare Committee.
8. Thereafter, on July 28, 2025, another statement under Section 183 of the BNSS of the minor was recorded. Ultimately, the custody of the minor was made over to the father of the minor.
9. Petitioner before Court contends that, she is unaware of such proceedings.
10. We are unable to subscribe such view of the petitioner. Petitioner apparently is well aware of such proceedings. One complaint was

- lodged by the petitioner and the other by her father in which all of those proceedings as noted above took place.
11. The interest of the minor is being looked after by the Child Welfare Committee. Petitioner is not remediless with regard to the custody of the minor.
 12. Petitioner may avail of the statutory alternative remedy available to her with regard to the custody of the child. We are keeping the issue of custody of the child open.
 13. We do not find any special circumstances necessitating our interference under Article 226 of the Constitution of India in a writ of habeas corpus, particularly when, in our view, welfare of the child is being looked after by the Child Welfare Committee and that no special circumstances exists.
 14. **WPA (H) 109 of 2025** is **disposed of** without any order as to costs.

(Debangsu Basak, J.)

15. I agree.

(AD)

(Md. Shabbar Rashidi, J.)