



Judgment

10 revn58.26

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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR**

CRIMINAL REVISION APPLICATION NO.58 OF 2026

Dr.Shrikant s/o Dharmaraj Warbhe,
aged about 42 years, occupation:
service, flat No.303, Neelayam
Apartments, Hingna T Point, Nagpur. **Applicant.**

:: VERSUS ::

1. Mrs.Payal w/o Shrikant Warbhe, aged
about 36 years, occupation: Nil, r/o plot
No.1, flat No.103, Hansdwani
Apartment, Bhoge Layout, Rana Pratap
Nagar, Nagpur.

2. Child Welfare Committee, Government
Children Inspection Home/Child Home,
Patankar Square, Nagpur. **Non-applicants.**

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Shri Atul Pande, Counsel for the Applicant.
Shri Kaustubh Tople, Counsel for NA No.1.

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CORAM : **URMILA JOSHI-PHALKE, J.**
DATE : **10/04/2026**

ORAL JUDGMENT

1. Heard.
2. By this revision, the applicant father is challenging
order dated 11.3.2026 passed by learned District Judge-1

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and Additional Sessions Judge, Nagpur (learned Judge below) below Exh.4 in Criminal Appeal No.138/2026 directing to keep custody of minor child Anvi for four days with the applicant i.e. from 9:00 am of Thursday till 9:00 pm of Sunday.

3. Learned counsel for the applicant submitted that there is matrimonial dispute between the applicant and non-applicant No.1. Their marriage was solemnized on 3.12.2014 and they are blessed with two daughters namely Anvi and Himanshi. Since there are differences in married life, the applicant started living separately and non-applicant No.1 is residing with two daughters at the apartment owned by the applicant. The applicant is taking care of their livelihood, education, and medical expenses. Daughter Anvi who is more than 10 years old started complaining about physical and mental torture at the hands of non-applicant No.1. Therefore, the applicant intervened and tried his level best to help his daughters

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and also provided Child Help Line Number for taking necessary help.

4. Upon the complaint made by daughter Anvi by way of Child Help Line Number, both the applicant and non-applicant No.1 were brought before the Ranapratap Nagar Police Station, District Nagpur. Non-applicant No.2 Child Welfare Committee passed an order of custody with non-applicant No.1 with her assurance of good care and directed to file a detailed report of investigation pertaining to complaint.

5. Child Help Line Worker Meenakshi Dhalale submitted her report with the said Committee about her home visit along with questionnaire answered by Anvi. Anvi categorically expressed her suffering before the said Committee.

6. Considering the situation, the applicant made a complaint and requested the said Committee to intervene

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and to extend assistance to Anvi. The said Committed, after recording statement of Anvi, handed over temporary custody to the applicant. However, non-applicant No.1 mother preferred an appeal bearing Criminal Appeal No.138/2026 against the order of the said Committee before learned Judge below and further filed an interim application for custody below Exh.4. Learned Judge below, without giving an opportunity to the applicant, handed over the temporary custody to non-applicant No.1 for four days i.e. from 9:00 am of Thursday till 9:00 pm of Sunday.

7. Learned counsel for the applicant submitted that statement recorded by the said Committee is completely ignored by learned Judge below as well as the report of the Child Help Line is also ignored. He submitted that in that circumstances, an opportunity is to be granted to the present applicant to contest the application filed by non-applicant No.1.

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8. Per contra, learned counsel for non-applicant No.1 strongly opposed the said contentions and submitted that custody of the child was with the mother, but the said Committee has obtained the said custody and, therefore, learned Judge below, being non-applicant No.1 is natural guardian, handed over the custody to her. In view of that, the revision deserves to be dismissed. Alternatively, he submitted that an opportunity can be granted to the present applicant and directions can be given to learned Judge below to dispose of the said application at the earliest.

9. After hearing both the sides and perusing the entire record, the order passed by learned Judge below shows that after considering the interim application, he has directly granted custody of the minor child by way of temporary arrangement i.e. child Anvi to non-applicant No.1 for four days in a week from 9:00 am of Thursday till 9:00 pm of Sunday.

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10. I have also perused the statement of the minor child recorded by the Child Help Line wherein she has specifically stated that she desires to stay along with her father. Ultimately, welfare and desire of the child is of utmost importance which appears to be not taken into consideration by learned Judge below before passing the order.

11. In view of that, an opportunity is required to be granted to the present applicant to put forth his reply as well as contentions before learned Judge below. As such, the revision application deserves to be allowed. Accordingly, I proceed to pass following order:

ORDER

(1) The revision application is **allowed**.

(2) The matter is remanded back to learned District Judge-1 and Additional Sessions Judge, Nagpur for reconsideration.

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(3) Learned Judge below shall give sufficient opportunity to both the parties and, thereafter, considering welfare of the child, which is paramount consideration, shall pass appropriate order in the matter on its own merits.

(4) The parties to appear before the trial court on **20.4.2026**.

(5) In the meantime, there shall be **Stay** to the implementation and execution of order dated 11.3.2026 passed by learned District Judge-1 and Additional Sessions Judge, Nagpur.

(6) Learned Judge below, while considering the application on merits, also consider aspect of procedure of having interaction with the minor child.

With this, the revision application is **disposed of**.

(URMILA JOSHI-PHALKE, J.)