

**Cri. M.A NO. 270/2018.**

**Padmashri Ashish Chudappa**

**Vs**

**Ashish Mahavir Chudappa**

**MHSN03-00-2186-2018.**

**ORDER BELOW EXH.35.**

Perused the application and say filed by the applicant at Exh.37.

02. Heard the learned advocate for the respondent and the applicants.

03. It is the averment of the respondent that, the applicant No.1 has filed the main application by making false and baseless allegations against the respondent. As per respondents, order on the interim application was passed on 09/11/2021 and since then the respondent has paid maximum amount to the applicant. It is the further averment of the respondent that when the applicant no.1 was residing with the respondent at that relevant time the applicant no.2 was studying in the Lexicon International School, Vagholi, Pune. The educational expenses of applicant no.2 were borne by the respondent. It is the contention of the respondent that in the month of April 2018 the applicant no.1 along-with the applicant no.2 had left the matrimonial home without any reason. Thereafter the respondent have made repeated attempts but the applicant no.1 has not return back to the matrimonial home. It is the averment of the respondent that the applicant no.1 neither allows them to speak with the applicant no.2 nor permits them to meet the applicant no.2. As per the respondent, he is always eager to meet the applicant no.2. Therefore, the respondent have filed the present application under the section 21 of the Prevention of Women From Domestic Violence Act and prayed that they may be

permitted to meet the applicant no.2 on any Sunday of every month. Hence, prayed that the application be allowed.

04. The applicant no.1 filing her say at Exh.37 has denied all the contentions of the respondent. It is the contention of the applicant no.1 that, the matter is pending for cross-examination and the respondent have filed the present application only to delay the present matter. It is the further contention of the applicant No.1 that the contents of the application at Exh.35 are false and frivolous. As per the applicant No.1, the respondent has assaulted the applicant no.2 and have always threatened to to take away the applicant no.2 from her. It is the further contention of the applicant no.1 that the respondent without any reason had dragged them out of the matrimonial house in the month of April 2018 and since then the respondent has not even inquired about the applicants. The applicant further contended that applicant no.2 does not wish to meet the respondent and if the application is allowed it will hamper the education of applicant no.2. Therefore, prayed for rejection of the application.

05. It must be noted that for the purpose of deciding the visiting rights of the child the paramount consideration is the welfare of the child and not the interests of either of their parents. It is the averment of the respondent that, the applicant no.1 along-with the applicant no.2 without any reason has left the matrimonial home. It is further averments of the respondent that, he being father want meet the applicant No.2. It is the averment of the respondent that, they have always maintained and looked after the applicant No.2. On the other hand, it is the contention of the applicant no.1 that, the respondent have abused and assaulted the applicant no.2. However, in support of her allegations the applicant no.1 has not filed any documentary evidence such as copy of complaint etc.

along-with this application. Moreover, the proof of allegations made by the applicant is the matter of trial. Therefore, the aforesaid allegations unless proved cannot be taken into consideration at this stage. It is material to note that, the respondent being father of the applicant no.2 have every right to visit the applicant no.2. Moreover, it is submitted on behalf of the respondent that, he is always eager to meet the applicant no.2 and spend time with him. Thus, keeping in the mind the fact that the applicant no.2 will also require presence and affection of the respondent, it is just and proper to grant visitation rights to the respondent. Thus, in view of above discussion I proceed to pass following order.

**ORDER**

1. The application is allowed.
  
2. On every fourth Sunday of the each month, the applicant No.1 shall arrange the visit of applicant no.2 to the respondent at Sangli by leaving the applicant no.1 in the custody of the respondent from 11.00 a.m. till 06.00 p.m. at place mutually to be agreed between the applicant No.1 and the respondent and then the respondent shall send the applicant no.2 back to the applicant no.1.

Sd/-

(Ashish Mahipati Chavan)  
4<sup>th</sup> Judicial Magistrate First Class,  
Sangli.

Date : 20/04/2024.  
Place : Sangli.

**:- CERTIFICATE :-**

“I affirms that the contents of this P.D.F Judgment order are same word for word as per original Judgment”.

Name of Stenographer : Smt. PI. Madrasi,  
Name of the court : 4<sup>th</sup> J.M.F.C., Sangli.  
Date : 20/04/2024.  
Order signed by presiding officer on : 20/04/2024.  
Order uploaded on : 20/04/2024.