

**ORDER BELOW EXH. 4 CRIMINAL M.A. NO. 297/2019**

This application is under section 21 and 23 of the Protection of Women From Domestic Violence Act, 2005 for interim custody of minor son Arush and for order to reside at house of respondent No. 1.

2. The applicant submitted that she has filed application below the said Act. Her husband and in-laws are physically and mentally harassing her. Respondents No. 1 to 3 are doubting her fidelity. They used to abuse her and assault her. She has three children. The younger child namely Arush is of 5 years age. Respondent No. 1 and 2 are addicted to liquor. Hence, there is threat to child. Respondent No. 1 doubted her fidelity, abused and assaulted her and then brought her at her maternal house. Her economic condition is not proper and she cannot live at her maternal house for long period. Hence, this application.

3. Respondent No. 1 objected this application vide reply at Exh. 8 stating that the applicant is living in illicit relationship with Parmeshwar Nagnath Raut. Respondent No. 1 had seen them in such relationship on 21/02/2019 and hence, the applicant left matrimonial house herself. Now the applicant is residing at Gulpoli and her relatives are at Pune. She has arrangement of resident at village Gulpoli. She goes for labour work. Respondent No. 1 is properly taking care of their children and provided them educational facilities. If custody of child Arush is given to the applicant, it will affect on his mental condition. Hence, it is appropriate to keep his custody with respondent No. 1 considering his future life. Age of child is more than 7 years. Respondent No. 1 is natural guardian. He prayed for rejection of this application.

4. Perused the record. In such type of custody application, it is necessary to consider welfare of child and that must be paramount consideration. Respondent No. 1 alleged about fidelity of the applicant. However, at this stage there is no evidence on record in support of his

contention. The respondent No. 1 has produced bonafide certificate of the child Arush alongwith Exh. 15. As per that certificate, his date of birth is 26/09/2013 and he is taking education in 3<sup>rd</sup> standard of Z.P. School Anandnagar, Tal. Madha. Thus, this document shows that age of the child is more than 7 years. Further he is taking education. His education should not be hampered due to such family dispute between parents. Furthermore, the applicant herself stated that her economic condition is not well. Hence, it is appropriate to reject this application considering facts on record. Such custody cannot be given as urgency is not shown.

5. In respect of prayer to reside at house of respondent No. 1, the applicant was required to give proper description of the house so that specific order can be passed as to safety of parties. There are allegations as to harassment and under such circumstances order of residence cannot be passed without verifying position of the house. Hence, this relief is also cannot be granted. Hence, following order.

**ORDER**

Application is rejected.

Date- 06/05/2022

(R.S.Dhadake)

Place- Barshi

Judicial Magistrate First Class, Barshi

**CERTIFICATE**

I affirm that contents of this PDF file Order /Judgment are same word to word, as per the original Order /Judgment.

Name of Stenographer	: Shaikh A.G. Steno Grade-III
Court	: Judicial Magistrate F.C., Barshi
Judgment / Order date	: 06/05/2022
Judgment / order uploaded on	: 06/05/2022