

**CCC NO. 100064/2024 Connected Cases: MFA NO.
103183/2024**

IN THE HIGH COURT OF KARNATAKA AT DHARWAD

[MR RIYAZ S/O BADESAB PATHAN VS. SMR DURRE SAMIN
D/O RAJAHMED SARMULLA AND ANOTHER]

27.04.2026

(VIDEO CONFERENCING / PHYSICAL HEARING)

CORAM: HON'BLE MR JUSTICE B.M.SHYAM PRASAD
and
HON'BLE MR JUSTICE SHIVASHANKAR
AMARANNAVAR

ORAL ORDER

(PER: HON'BLE MR JUSTICE B.M.SHYAM PRASAD)

This Court, on the previous hearing date [21.04.2026], after referring to the earlier proceedings, has recorded the questions that will have to be considered if the applications in MFA No.103183 of 2024 are to be considered. The questions framed are as follows.

[a] Whether the applications filed for recall of the dismissal of the appeal and the earlier application for recall of the dismissal order must be favoured.

[b] If the applications are to be favoured, the orders that must be in the contempt proceedings as charges are already framed.

[c] Whether the complainant can be denied of the visiting right to the daughter during the weekends until these two afore questions are answered.

2. Sri Waqar Ahmed Shahpure, the learned counsel for the complainant- respondent, submits that the appellant – accused in is not bona fide in assigning reasons, and the learned counsel also reiterates that it would be imperative for this Court to decide on the custody in the light of the Guidelines formulated by the High Court of Calcutta and the orders of this Court in W.P. No.24360 of 2023.

3. Though the appellant's bona fides are disputed, it cannot be disputed that the appellant is essentially seeking for an order that would sub-serve the minor's interest, and on her undertaking that she will not deny access to the complainant to meet the child as and when informed by him could be offered as a mitigating circumstance. Further, if the question whether there must be some order based on the Guidelines framed by the High Court of Calcutta is to be examined, the appeal must be restored for a decision. This Court must also record that the complainant – respondent and the appellant – accused are re-

married, and that this Court has also interacted with the child as recorded on a previous hearing date [21.04.2026].

4. In these circumstances, the applications [*in IA Nos. 1 of 2026, 2 of 2026, 3 of 2026 and 4 of 2026*] are allowed recalling the orders of dismissal of the appeal and the earlier application for restoration. The appeal is taken on board. The further proceedings in the contempt application are deferred for the present and the presence of the appellant and the minor child stands dispensed with subject to further orders. The appellant shall adhere to the undertaking given to this Court that the complainant - respondent will not be denied access to the child in exercise of his visiting rights.

The Office is directed to re-list this appeal and the complaint on **22.06.2026**.

**(B.M.SHYAM PRASAD)
JUDGE**

**(SHIVASHANKAR AMARANNAVAR)
JUDGE**

Vnp
List No.: 1 Sl No.: 33