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NC: 2026:KHC-D:4215
CRL.RP No. 100460 of 2025

IN THE HIGH COURT OF KARNATAKA, AT DHARWAD
DATED THIS THE 17TH DAY OF MARCH, 2026
BEFORE
THE HON'BLE MR. JUSTICE HANCHATE SANJEEVKUMAR
CRIMINAL REVISION PETITION NO.100460 OF 2025
(397 OF Cr.PC/438 OF BNSS)

BETWEEN:

1. SHRI DHANANJAY S/O. VITTAL RELEKAR,
AGE: 36 YEARS, OCC: CIVIL ENGINEER,
R/O. HOUSE NO.4800, GURUKAL ROAD,
NEAR GOVERNMENT HOSPITAL,
TERADAL (TMC),
TQ. RABAKAVI BANAHATTI,
DISTRICT BAGALKOT-587315.
2. SMT. SEEMA S/O. VITTAL RELEKAR,
AGE: 56 YEARS, OCC: HOUSEHOLD,
R/O. HOUSE NO.4800, GURUKAL ROAD,
NEAR GOVERNMENT HOSPITAL,
TERADAL (TMC),
TQ. RABAKAVI BANAHATTI,
DISTRICT BAGALKOT-587315.
3. SHRI VITTAL S/O. RAMACHANDRA RELEKAR,
AGE: 60 YEARS, OCC: CIVIL ENGINEER,
R/O. HOUSE NO.4800, GURUKAL ROAD,
NEAR GOVERNMENT HOSPITAL,
TERADAL (TMC),





TQ. RABAKAVI-BANAHATTI,
DISTRICT BAGALKOT-587315.

...PETITIONERS

(BY SRI KIRANKUMAR CHATTIMATH, ADVOCATE)

AND:

AISHWARYA W/O. DHANANJAY RELEKAR,
MAIDEN NAME: AISHWARYA,
D/O. SANJAY MAHENDRAKAR,
AGE: 25 YEARS, OCC: HOUSEHOLD,
R/O. PRESENTLY C/O. SANJAY MAHENDRAKAR,
BEHIND POLICE, DR. QUARTERS, 4TH CROSS,
VEERBHADRA NAGAR,
TQ. & DIST. BELAGAVI-590001.

...RESPONDENT

(BY SRI BUNTY R. KAPAHI, ADVOCATE)

THIS CRIMINAL REVISION PETITION IS FILED UNDER SECTION 397 OF THE CODE OF CRIMINAL PROCEDURE, R/W. SECTION 438 R/W. SECTION 442 OF BNSS ACT, PRAYING TO SET-ASIDE THE JUDGMENT AND ORDER PASSED BY THE V ADDITIONAL DISTRICT AND SESSIONS JUDGE BELAGAVI IN CRL.A.NO.144/2025 DATED 30/09/2025 AND CONFIRM THE JUDGMENT AND ORDER PASSED BY THE JMFC., II BELAGAVI IN CRL.MISC NO.64/2025 AND ETC.

THIS PETITION COMING ON FOR ADMISSION, THIS DAY ORDER WAS MADE THEREIN AS UNDER:



CORAM: THE HON'BLE MR. JUSTICE HANCHATE SANJEEVKUMAR

ORAL ORDER

The husband, mother in law and father in law of the respondent have filed this criminal revision petition calling in question the judgment and order dated 30.09.2025 passed in Crl.A.No.144/2025 by the V Additional District and Sessions Judge, Belagavi¹, which reversed the judgment and order dated 22.04.2025 passed in Crl.Misc.No.64/2025 by the JMFC II, Belagavi². The Appellate Court has passed order granting custody of the child, namely Likith Dhananjay Relekar, to the mother. Hence, this Criminal Revision Petition is filed.

2. The relationship between the parties is not in dispute. Petitioner No.1 is the husband of the respondent and petitioners No.2 and 3 are the father and mother of petitioner No.1. The respondent has filed an application under Section 21 of the Protection of Women from Domestic Violence Act, 2005³, before

¹ hereinafter referred to as 'the Appellate Court' for short

² hereinafter referred to as 'the Trial Court' for short

³ Hereinafter referred to as the 'PWDV Act'



the Court of JMFC-II, Belagavi⁴, seeking interim custody of the child by name Likhit Dhananjay Relekar. The learned Magistrate has allowed the application in part by granting visitation rights, but declined to grant interim custody of the child to the respondent.

3. Being aggrieved by the same, the respondent, who is the mother of the child, has preferred Criminal Appeal No.144/2025 before the V Additional District and Sessions Judge, Belagavi⁵. The learned Sessions Judge has allowed the appeal by granting interim custody of the child to the respondent and has granted visitation rights to the petitioners herein. It is undisputed that the child is three and a half years old.

4. Section 21 of the Protection of Women and Domestic Violence Act, 2005, reads as under:

"21. Custody orders.- *Notwithstanding anything contained in any other law for the time being in force, the Magistrate may, at any stage of hearing of the application for protection order or for any other relief under this Act grant temporary custody of any*

⁴ Hereinafter referred to as the 'learned Magistrate'

⁵ Hereinafter referred to as the 'Sessions Court'



child or children to the aggrieved person or the person making an application on her behalf and specify, if necessary, the arrangements for visit for such child or children by the respondent:

Provided that if the Magistrate is of the opinion that any visit of the respondent may be harmful to the interests of the child or children, the Magistrate shall refuse to allow such visit."

5. Therefore, the learned Magistrate has the jurisdiction and power to grant interim custody of a child. The learned counsel for the petitioners places reliance on the following judgments:

- a) Samiulla Saheb and Another vs. Mohammed Sameer⁶;
- b) Smt. Raziya w/o Riyazahamad Attar vs. The State of Karnataka, Through P.S.I. Gokak Town Police Station and Others⁷

6. The learned counsel for the petitioners contended that an application for custody ought to have been filed under Section

⁶ W.P.No.6789/2023 decided on 22.04.2024

⁷ Criminal Petition No.101790/2017 decided on 27.03.2018



9 of the Guardians and Wards Act, 1977⁸, and the application for custody is not maintainable under the PWDV Act.

7. The argument of the learned counsel for the petitioners cannot be accepted, as Section 21 of the PWDV Act specifically empowers the Magistrate to grant custody of a minor child. Therefore, it cannot be said that the learned Magistrate has no jurisdictional authority to pass such an order. The facts and circumstances of the judgments relied upon by the petitioners are distinguishable from the present case, and hence, they are not applicable.

8. It is open either parent to seek custody under the provisions of the HMG Act, or under the PWDV Act. In the present case, the respondent has exercised her right under Section 21 of the PWDV Act. Therefore, there are differences in the factual matrix between the cases cited above and the present case; hence, the judgments relied upon by the learned counsel for the petitioners are not applicable in the present case.

⁸ Hereinafter referred to as the 'Act of 1977'



9. The child is only three and a half years old. At such a tender age, it is beneficial and welfare to the child to remain in the custody of the mother. The learned Sessions Judge has rightly appreciated this aspect and set aside the order of the learned Magistrate. The learned Sessions Judge has also given visiting rights to the petitioners. Therefore, no merit is found in the present petition and the same is liable to be dismissed.

10. Accordingly, the petition is ***dismissed***.

11. The petitioners are directed to handover custody of the child, namely Likhit Dhananjay Relekar, to the respondent/mother within one week from today.

**Sd/-
(HANCHATE SANJEEVKUMAR)
JUDGE**