

IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

WEDNESDAY, THE EIGHTH DAY OF JANUARY TWO THOUSAND AND TWENTY FIVE

:PRESENT:
THE HONOURABLE SMT JUSTICE JUVVADI SRIDEVI

IA No. 2 OF 2024
IN
CRLP NO: 16187 OF 2024

Between:

[REDACTED]

...Petitioner/Accused
(Petitioner in CRLP 16187 OF 2024
on the file of High Court)

AND

1. The State of Telangana, Rep. by its Public Prosecutor, High Court Buildings, Hyderabad. through SHO, P.S. Panjagutta Hyderabad. ..Respondent No.1

2. [REDACTED]

...Respondent No.2/Defacto Respondent
(Respondents in-do-)

Counsel for the Petitioners : Sri Y. Soma Srinath Reddy
Counsel for the Respondent No.1 : Sri Jithender Rao Veeramalla, Addl.
PUBLIC PROSECUTOR

Petition under Section 528 of BNSS praying that in the circumstances stated in the grounds filed in support of the petition, the High Court may be pleased to stay all further proceedings against Petitioner/ Accused No.1 in FIR No. 1236 of 2024 P.S. Panjagutta, Hyderabad On the file of XIV Addl. Chief Judicial Magistrate At Nampally Hyderabad registered U/Sec. 137(2) BNS Act, pending disposal of CRLP No. 16187 of 2024, on the file of the High Court.

The Court made the following

ORDER:

This application is filed by the petitioner/accused No.1 to grant stay of all further proceedings in F.I.R.No.1236 of 2024 of P.S. Panjagutta, registered for the offence under Section 137(2) of Bharatiya Nyaya Sanhitha, 2023.

Heard Sri Y.Soma Srinath Reddy, learned counsel for the petitioner and Sri Jithender Rao Veeramalla, learned Additional Public Prosecutor appearing for the respondent-State.

Learned counsel for petitioner submits that the petitioner is the biological mother of the minor child and she has acted in the interest of her child out of her maternal instincts. He further submits that the remedy

available to the *de facto* complainant for violation of custody order is to approach the Family Court, however, instead of approaching the Family Court, the *de facto* complainant has foisted the present complaint against the petitioner with all false allegations.

In support of his contention, learned counsel for petitioner relied on the judgment of High Court of Bombay in Criminal Application No.552 of 2023, wherein, it is held that the effect of natural father taking away the child from custody of the mother in real sense amounts to taking a child from the lawful guardianship of the mother to the another lawful guardianship of the father. Natural father of the minor child is also a lawful guardian along with the mother, and therefore, father of the minor cannot be said to have committed the offence under Section 361 of IPC so as to made him punishable under Section 363 of Cr.P.C.

Hence, learned counsel prayed to grant stay of all further proceedings.

On the other hand, learned Additional Public Prosecutor opposed for grant of stay stating that specific allegations are levelled against the petitioner.

Having heard both sides and perused the material on record, it appears that the petitioner herein, who is the mother of the minor child, has taken the minor child along with her, which amounts to taking the child to another lawful guardianship of the mother. The aforesaid judgment is squarely applicable to the facts of the present case, as in the present case, the petitioner, who is the natural mother of the minor child, is also a lawful guardian, along with the father. Therefore, there shall be stay of all further proceedings against the petitioner/accused No.1 in F.I.R.No.1236 of 2024 of P.S. Panjagutta, till 13.02.2025.

SD/- T.TIRUMALA DEVI
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The XIV Addl. Chief Judicial Magistrate at Nampally, Hyderabad.
2. The Station House Officer, P.S. Panjagutta, Hyderabad.
3. [REDACTED]
4. One CC to SRI Y.Soma Srinath Reddy, Advocate [OPUC]
5. Two CCs to PUBLIC PROSECUTOR, High Court at Hyderabad. (OUT)
6. One spare copy

HIGH COURT

JS,J

DATED:08/01/2025

ORDER

I.A.NO.2 OF 2024
IN
CRLP.No.16187 of 2024

STAY

