

The Commission's recommendation is placed on flap A
for concurrence.

30.12

A. N. Tripathi
Secretary
MSC PCR

CHAIRMAN (In Charge)

336
31/12

419/101
1352

Before the Maharashtra State Commission for Protection of Child Rights.

Enquiry, under sections 13 (1) and 14 (1) of the Child Right Protection Act, 2005

Case No.39/2013-2014

Mr. Prashant Kardekar,

----- Complainant

Vs.

Mrs. Asha, Pune

----- Respondent

Background:-

This matter came before the Commission from the complainant, Shri Prashant Kardekar, requesting the Commission to intervene in the matter of his minor daughter, who is in the custody of his ex-wife, who is harassing her mentally and physically by his ex-wife, is separated and divorce is confirmed from the Court. One time settlement is also awarded by the Court. In the complaint, he has mentioned that his ex-wife regularly beats his daughter with stick for petty reason, creates fear in daughter's mind, and beats the daughter with screw driver and has given burn mark by putting heated spoon gas, and so many others bad treatment as mentioned in the letter of the complaint.

2. Observing the seriousness of the case, the Commission has taken cognizance, issued notices to the respondent; the respondent submitted a detailed reply, refuted the charges and raised the issue of the jurisdiction of the Commission as the custody of child has been given to her by the Family Court, Bangalore. The divorce has been awarded, one-time settlement has been finalized, therefore, custody issue of the child is not maintainable before this Commission. Whatever allegation made in the complaint is baseless, far away from truth. She has submitted that since Court has ordered to pay Rs.5,000/- per month to the child for maintenance. Therefore, just to escape from the liability, he has filed this false application even though she was scolded by her ex-husband when she gave birth to female child instead of male child.

3. During the hearing when the Commission asked from the child "Gauri" about mistreatment or misbehave by the mother, she denied. However, she expressed her desire to stay with her father alongwith mother. "Gauri" seem to be intelligent and very clever, she expressed that it would be better that if father and mother live together and she also expressed that her career will be in good condition if both her parents shall be together.

4. By counseling, the Respondent also agreed to stay with the husband for sake of her daughter. However, complainant refused the stay with his ex-wife saying that he has suffered a lot with the hand of his wife. He and his entire family were in jail for period of three months under Dowry Prohibition Act; therefore, once matter is settled by Court, he is not willing to stay with his ex-wife.

5. As this matter does not fall under the purview of the Commission and come under the purview of the Court which has passed the order of divorce, therefore, Commission's recommendations are as follows:-

“(i) Parties are directed to approach the Court, if they want to live together.

(ii) Bad treatment against the child by the respondent is not established.

(iii) The case is disposed of accordingly.

By order and seal of the Commission



(A.N. Tripathi)

I.F.S.

Secretary

Maharashtra State Commission for Protection
of Child Rights.

Date: 31.12.2014