



\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Pronounced on: 20<sup>th</sup> May, 2025*

+ **CRL.M.C.1969/2017 & CRL.M.As 8104/2017,**  
**8105/2017, 15851/2021**

1. **SMT. MEENU JAIN**  
W/o Gaurav Jain  
R/o B-181, First Floor Front,  
Vivek Vihar, Delhi.
2. **MST. ARYAN JAIN**  
Minor Child for Protection of  
His Rights Through His  
Natural Guardian Smt. Meenu Jain  
Kept at : C-249, Ground Floor,  
Vivek Vihar, Delhi.

.....Petitioners

Through: Mr. Dharmendra Mishra & Ms.  
Anajana Mishra, Advocates through  
VC.

**Versus**

1. **GAURAV JAIN**  
S/o Ravinder Jain  
N-97, Backyard, Ghaziabad, U.P.
2. **SUDHA JAIN**  
W/o Ravinder Jain
3. **RAVINDER JAIN**  
F/o Gaurav Jain

All three residing at:  
C-249, Ground Floor,



Vivek Vihar, Delhi.

....Respondents

Through: Mr. Krishna Prasad, Advocate for Dr.  
Radha Parihar, Advocate for R-1  
through V.C.

**CORAM:**  
**HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA**

**J U D G M E N T**

**NEENA BANSAL KRISHNA, J.**

1. A Petition under Section 482 of the Code of Criminal Procedure, 1973 (*hereinafter referred to as "Cr.P.C."*) read with Article 227 of Constitution of India has been filed against the Order dated 13.01.2017 in Criminal Appeals No.233/2016 and 254/2016, which have been dismissed by the learned ASJ, on the grounds of limitation.
2. *Briefly stated*, the Petitioner/Meenu Jain got married to Respondent No.1/Gaurav Jain on 06.03.2006 and one son, Respondent No.2/Aryan was born from their wedlock on 21.01.2007. Differences arose between the parties and eventually aside from other litigation, a Complaint under Section 12 of the Protection of Woman Against the Domestic Violence Act, 2005 (*hereinafter referred to as "DV Act"*) was filed by the Petitioner against her husband and her parents-in-law, on 05.03.2013.
3. During the pendency of the said Complaint, the Petitioner moved an *Application on 09.03.2016 seeking Restoration of Electricity due to removal of electricity meter on 07.03.2016*. The learned M.M dismissed this *Application vide* order dated 16.05.2016 by observing that a separate Suit



for Restoration of Electricity had been filed seeking the same relief. Moreover, it was noticed that a sum of Rs.75,069/- was sought from the Petitioner on account of penalty as she was found committing theft of electricity by tampering the meter. In this backdrop the Application for restoration of electricity was dismissed *vide* Order dated 16.05.2016.

4. The Petitioner also filed an *Application on 09.03.2016 seeking Interim Custody of the Child during the vacations*. The Interim Order of custody of the child was declined by observing that similar earlier Applications had been dismissed and a separate Petition under Section 7 Guardian and Wards Act had been filed by Respondent No.1 which was pending adjudication before the Principal Judge, Family Courts. It was further noted that the various circumstances as detailed therein did not reflect that it was in the welfare of the child that the custody be given to the mother. It was noted that the child on examination by the Court, had blatantly refused to meet and even see the face of the mother.

5. Moreover, the FIR registered on 13.12.2014 on which date she alleged that child was kidnapped, did not find any such mention in the said Complaint. Moreover, no educational documents of the child could be produced by the Petitioner which could be assessed to adjudicate if the child's education would be better taken care of in the custody of the Petitioner. Consequently, the Custody Application was dismissed *vide* Order dated 01.04.2016.

6. Against these two Orders, these two Appeals bearing *C.A. No. 233/2016 in regard to Interim Custody of the child* and *C.A. No. 254/2016 in*



*respect of Restoration of Electricity Meter*, were filed by the Petitioner. Both these Petitions were supported with Application under Section 5 Limitation Act, 1963 for Condonation of Delay of 56 days and 47 days, respectively.

7. The learned ASJ in his detailed Order dated 13.01.2017 held that the only ground given for Condonation of Delay was that the Counsel was not well. However, from the medical documents, it could not be inferred that he had been advised bed rest. Moreover, aside from filing the Vakalatnama, he never appeared on behalf of the Petitioner in the Court.

8. Considering the totality of circumstances, the Condonation of Delay Applications in both the Appeals were dismissed and consequently, the Appeals were also dismissed. Aggrieved by the said Order, the present Petition has been filed on behalf of the Petitioner.

9. A formal **Reply** was filed on behalf of the Respondent No.1 who had submitted that the learned Trial Court had gone through all the material available and interacted with the minor child two times, before declining the Interim Custody to the Petitioner and it does not suffer from any infirmity.

10. In so far as Applications for Condonation of Delay was concerned, it had been re-affirmed that there was no cogent reason disclosed for condonation of Delay, and therefore, the Appeals had been rightly dismissed by the learned ASJ.

11. **Submissions heard and the Written Submission filed on behalf of the Petitioner also perused.**

12. In the Domestic Violence Petition, the Petitioner has detailed that she was living in the shared matrimonial household and that the Electricity



Meter has been disconnected illegally and that the custody of the child has been taken away forcibly on 31.12.2014.

13. In so far as the custody of the child is concerned, the child has already attained majority and any relief in respect of the custody has become infructuous. Moreover, as had been noted by the learned M.M, separate Custody and Guardianship Petition had been filed before the Principal Judge, Family Court, which was under consideration.

14. In so far as the restoration of the Electricity Meter was concerned, it had been rightly noted by the learned M.M that a separate Suit had already been filed for the same relief.

15. It cannot be overlooked that the provisions of D.V Act are essentially to provide immediate interim relief so that her rights are not defeated by having to resort to the long drawn legal procedures. Both these reliefs had been sought in separate Petitions and thus, had been rightly declined by the learned M.M in the Impugned Orders.

16. Learned ASJ has also rightly observed that there was no cogent reason given to explain the delay in filing the Petition. The Applications under Section 5 Limitation Act, 1963 were not supported with the Affidavit of the Counsel and the medical record of the learned Counsel also did not reflect that he had been advised any bed rest.

17. There is no merit in the present Petition, which is hereby dismissed and accordingly disposed of along with the pending Application(s).

**(NEENA BANSAL KRISHNA)**

2025:DHC:4088



**JUDGE**

**MAY 20, 2025**

*va*