



**Format for Application Requesting the Court to Refer Custody application
to the Child Welfare Committee**

IN THE COURT OF HON'BLE METROPOLITAN MAGISTRATE,, C. NO.,
FIR No.....,
P.S.

In the matter of:

..... Complainant

V/s

..... Accused

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Committee

MOST RESPECTFULLY SHEWETH:

That this case is pending adjudication before this Hon'ble Court and the date of hearing and production of the prosecutrix is fixed for today i.e.

That in the above mentioned case the true and correct facts of the case are the following: That the prosecutrix being a minor was produced before the Child Welfare Committee (hereafter referred to as CWC) on

Section 32 of the Juvenile Justice Act, 2000 (hereafter referred to as JJ Act, 2000) states as follows:

"Sec. 32. Production before Committee.

(1) Any child in need of care and protection may be produced before the Committee by one of the following persons: (i) any police officer or special juvenile police unit or a designated police officer; (ii) any public servant; (iii) Childline, a registered voluntary organisation or by such other voluntary organisation or an agency as may be recognised by the State Government; (iv) any social worker or a public spirited citizen authorised by the State Government; or (v) by the child himself. (2) The State Government may make rules consistent with this Act to provide for the manner of making the report to the police and to the Committee and the manner of sending and entrusting the child to children's home pending the inquiry."

That on the abovementioned date, i.e. 10th Oct, 2013, the CWC, on viewing the prosecutrix as a child in need of care and protection, took the prosecutrix into its custody and placed the prosecutrix at for care and protection, being the appropriate authority as per Sec. 31 of the JJ Act, 2000:

"Powers of Committee.- (1) The Committee shall have the final authority to dispose of cases for the care, protection, treatment, development and rehabilitation of the children as well as to provide for their basic needs and protection of human right. (2) Where a Committee has been constituted for any area, such Committee shall, notwithstanding anything contained in any other law for the time being in force but save as otherwise expressly provided in this Act, have the power to deal exclusively with all proceedings under this Act relating to children in need of care and protection."

It is humbly submitted that as per Sec. 31 of the JJ Act, 2000 the CWC is the final authority to dispose of cases for the care, protection, treatment, development and rehabilitation of the children as well as to provide for their basic needs and protection of human right. This is further supported by the Hon'ble Bombay High Court decision in *Prerna Vs. State of Maharashtra*: 2003(2) Mah.L. J. 105, where the Division Bench of this Court gave the following guidelines to ensure that a child in need of care and protection is dealt with bearing in mind the possibility of their reformation and rehabilitation

"37. We feel that the following directions may prevent recurrence of such events in future: (A) No Magistrate can exercise jurisdiction over any person under 18 years of age whether that person is a juvenile in conflict with law or a child in need of care and protection, as defined by Sections 2(1) and 2(d) of the Juvenile Justice (Care and Protection of Children) Act, 2000. At the first possible instance, the Magistrates must take steps to ascertain the age of a person who seems to be under 18 years of age. When such a person is found to be under 18 years of age, the Magistrate must transfer the case to the Juvenile Justice Board if such person is a juvenile in conflict with law, or to the Child Welfare Committee if such a person is a child in need of care and protection..."

The instant application on behalf of the applicant is bona-fide and in the interest of justice.

PRAYER

Therefore, keeping in view the afore stated facts and circumstances and also in the interest of justice, it is humbly prayed that this Hon'ble Court:-

- a) Direct the Applicant to apply for custody before the appropriate authority, i.e., the Child Welfare Committee and/or
- b) Pass any other order which the court may deem fit and proper in the facts and circumstances of the case.

Dated:

Place:
(Applicant)

Through: Lawyer

