IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

Special Leave Petition (C) No.17006 of 2025

Ms. Amrita Sinha **Petitioner(s)**

Versus

Mr. Shwetabh Sahay **Respondent(s)**

O R D E R

K. VINOD CHANDRAN, J.

1. This Special Leave Petition was disposed of on 25.06.2025 with the following directions: -

> "1. We have heard Mr. Nitin A.M., learned counsel for the petitioner and Ms. Pinky Anand, learned senior counsel for the respondent.
>
> 2. We are not inclined to entertain this Special Leave Petition. The Special Leave Petition is, accordingly, dismissed.
>
> 3. However, considering the subject matter, we are of the view that a reasoned order should be passed.
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> 4. Since the date of examination of the child by the Department of Child and Adolescent Psychiatry, NIMHANS. Bengaluru, i.e. 15.06.2025, has expired, we direct the District Child Protection Officer Anekal Taluk, Bangalore Rural, Ms. Asha Kumari, to take the child along with the mother, i.e., the

petitioner, for examination to the Department of Child and Adolescent Psychiatry, NIMHANS. Bengaluru on 04.07.2025 at 11.30 a.m.

5. Reasoned order to follow.''

2. Considering the sensitive nature of the case involving the future of a minor child, we thought it appropriate to pass a reasoned order. Accordingly, the following reasoned order is passed.

3. This is an unfortunate case where it appears to us that a minor child is caught in the web of matrimonial tussle between her parents. *Prima facie,* it appears to us that the mother has obstinately deprived the father of the company of their minor child, overreaching orders issued by the High Court of Karnataka and thus also interfering with the due exercise of the *parens patriae* jurisdiction. The Courts exercising such jurisdiction oftener than ever are faced with the problem of the parents having custody, using the child as a tool to settle scores arising from the marital fights. The Courts often must perceive things which are not visible to the naked eye, read between the lines and separate the

grain of truth from the chaff of rancor, animosity and bitterness resulting from an estranged relationship.

4. The present SLP is concerned with a Guardian and Wards Case filed by the father seeking custody of his minor daughter, born in the wedlock with the petitioner herein. Their marriage took place in 2011, and the daughter was born in 2014, after which the wife is said to have left the matrimonial home in 2021. An FIR was registered by the wife under Section 498A of the Indian Penal Code, 1860 and in the G & W case filed by the father-the respondent herein, by Annexure P-1 the child was placed under the custody of the mother with visitation rights every fortnight between 9 am to 11 am under the strict supervision of the respondent mother and also permitted interaction with the child by video conferencing, once in a week, again under the strict supervision of the mother. The interim order was to continue till the disposal of the case.

5. The father challenged the order in a Writ Petition, produced as Annexure P-2, seeking modification of the interim order, seeking unsupervised overnight cohabitation

for the weekends and for 50% of school holidays. Objections were filed as per Annexure P-3 and the High Court of Karnataka after hearing the parties passed a detailed order on 21.03.2025. A reading of the aforesaid order shows that the learned Judge had considered the age of the child, the requirement for the company of both the parents and the need for her overall development, which would be possible only with the fruitful association of both parents and their families. The High Court allowed the father to have interim custody for half of the summer vacations of the child. The mother was directed to produce the child before the Registrar (Judicial) on 06.04.2025; which was not complied with. When the matter came up again on 08.04.2025, the mother was directed to ensure the presence of the child on 09.04.2025 at 02:35 pm, failing which coercive measures were threatened. The mother refused to comply with the order and the Counsel on record feigned ignorance of the whereabouts of the mother and the child. The Court directed an inquiry to be conducted by the Commissioner of Police

and restrained the duo from leaving the jurisdiction of the Court.

6. Later, the mother approached this Court, in which SLP, on mutual agreement, the child was directed to be brought to the High Court on 21st 22nd & 23rd of April, 2025 at 11 am, to enable the father to have custody till 6 pm on the first two days. On 23rd; it was further directed by this Court, that the child on production would be handed over to the father for two days and the father was also directed to hand over the child back through the Registrar (Judicial) on 25.04.2025.

7. On 22.04.2025, when the child was produced, she is said to have refused to even look at the father. On 22.04.2025, the child displayed the same reluctance and in an offensive display, asserted that she is not an object and cannot be compelled to meet the father. Based on the report of the Registrar (Judicial), the Court opined that the behavior of the child was a result of parental alienation and tutoring by the custodial parent. The Court, in the interest of the child, directed the child to be again produced on 26.04.2025 at 11 am before the Registrar (Judicial) to enable joint

counselling of the father and daughter with permission granted to the mother to participate in the counselling session, if she desires. Undaunted, the mother refused and produced a certificate from a doctor in a private hospital, certifying the child to have disturbed sleep, anger out bursts, irritability, low mood, loss of pleasure and interest and so on. It was opined that this was due to her participation in the proceedings in the Court and the fear of being taken away from the mother.

8. Based also on the certificate produced by the mother, the child was directed to be examined at the National Institute of Mental Health and Neurosciences (NIMHANS) on three consecutive days in the presence of the mother, the District Child Protection Officer being directed to accompany them. The mother failed to comply with the said order too, and it was reported that she along with her child, had left for Delhi. The Commissioner of Police, Bengaluru was directed to produce the mother and the daughter on 02.05.2025 on which date it was informed that a team of officers are in Delhi since the mother and the child were

found to be in the vicinity of the Supreme Court of India. A review petition filed against the earlier order of this Court was dismissed and the bailable warrants issued by the High Court was directed to be not executed; based on the undertaking of the mother to appear before the High Court. It was then that the evaluation was done by the NIMHANS.

9. Mental status evaluation was done on 05.05.2025, 06.05.2025 and 07.05.2025 and the report filed sought for an inpatient evaluation of the child for four to six weeks. The High Court then directed the NIMHANS to furnish a detailed reasoning for such inpatient evaluation. The report dated 22.05.2025 filed by the NIMHANS was produced before Court and after hearing both the parties and interactions with both Counsel as to how best the issue can be resolved, the Court directed the District Child Protection Officer to take the child alongwith the mother on 15.06.2025 at 11:30 am to NIMHANS, for admission and directed the hospital to ensure that the minor child is kept in an environment where she is comfortable and away from the other patients. It is the said order which has been challenged before us.

10. We heard Mr. Nitin A.M., learned counsel for the petitioner-wife and Ms. Pinky Anand, learned Senior Counsel for the respondent-husband.

11. Learned counsel for the petitioner apart from ventilating the anguish of the mother in admitting the child to a mental hospital also vehemently pointed out that the child would not, on any account, even interact with the father. The Counsel for the petitioner also attempted to take us through the Mental Healthcare Act, 2017 and the safeguards provided therein; which we refused to look into especially since the inpatient admission sought is not for treatment and is only for an evaluation.

12. We have detailed the facts regarding the various orders passed and their non-compliance only to highlight the adamant attitude displayed by the mother in somehow depriving the father of the company of the minor child. As has been rightly found by the learned Single Judge of the High Court, the offensive manner in which the child responded before the Registrar (Judicial) could possibly be the result of tutoring, effectively poisoning the mind of the

child against the father. In exercise of the *parens patriae* jurisdiction, as we observed at the outset, the Courts are often attempted to be misled by vicious accusations made by the spouses against each other. The judicial mind must rise above such accusations made, which is motivated by the resentment, resulting from a troubled marriage and keep in mind the paramount consideration which is the welfare of the child; always, ideally served by the company of both the parents and their families. However, when disputes arise between the parents and the hatred emanating from the troubled relationship clouds their minds and the custodial parent uses the child as a tool to avenge the perceived injustices meted out by the other, then the Court steps in, in the interest of the child.

13. We cannot but say that the learned Single Judge despite being faced with consistent disobedience of the orders passed, behaved with utmost restraint and always tried to ensure the welfare of the child, while also allaying the anxieties of the mother, by enabling participation in the reconciliation process attempted between the child and the

father. The conduct of the mother however reveals that she is against any such reconciliation and the challenge against the order of an independent evaluation by NIMHANS is also motivated by the animosity against her husband.

14. As we observed, the inpatient admission in NIMHANS, a premier institute of mental health, is neither for the treatment of the child nor is there a finding entered into by the Court of any mental illness. In fact, the medical certificate produced by the mother itself indicates that the child is under stress and has anxiety problems, more due to the estranged relationship of her parents. The fear of being removed from the company of the mother, though is probable, it is to allay such fear and also to find out the cause of her anger against her father that the inpatient evaluation is suggested. The report of NIMHANS relied on by the High Court is extracted in the impugned order and we only extract the following for better understanding of the purpose behind such inpatient admission of the child:

> "In light of the complex interplay of psychological, legal, and familial factors and the child's emotional/psychological symptoms, it is clinically

recommended that the minor child be admitted for structured inpatient care, as outlined in the previous report. With due respect, the proposed inpatient admission is intended for the purposes of diagnostic clarification and clinical management. Our objective is to offer neutral, evidence-based input in full compliance with the Hon'ble Court's directive. This recommendation is made solely in the interest of safeguarding the child's long-term psychological well-being and best interests.''

15. The learned Counsel appearing for the petitioner-mother has raised objections pointing out the fact that the studies of the child would be hampered. We cannot but observe that there is a larger purpose involved in attempting a reconciliation with her father and to find out the mind of the child, by such independent evaluation, which would be in the best interest of the overall development of the child.

16. We have already directed that the child would be taken by the District Child Protection Officer alongwith her mother to NIMHANS on 04.07.2025 at 11:30 AM. We clarify that after the admission of the child for her independent

evaluation, the doctors-in-attendance would take a decision regarding stay of the mother with the child and/or her visitation during the course of evaluation of the child at NIMHANS. Likewise, the doctors-in-attendance would also take a decision regarding visitation of the father on such date(s), time and frequency during the period of evaluation of the child at NIMHANS. Such a decision would also be taken regarding the visit of the District Child Protection Officer. On completion of the evaluation exercise, NIMHANS shall furnish a report to the Registrar (Judicial) of the High Court of Karnataka in a sealed cover. Post evaluation NIMHANS shall permit continuation of the custody of the child with the mother as previously ordered by the Court with visitation facility for the father depending upon their evaluation, till such time, the matter is listed before the High Court of Karnataka. We further make it clear that the entire expenses for admission and evaluation of the child at NIMHANS shall be borne by the father.

17. In case of any exigency, NIMHANS authority may contact the Registrar (Judicial) of the High Court of Karnataka for urgent listing.

18. The Special Leave Petition stands dismissed with the above directions. The High Court may pass appropriate order(s) in accordance with law based on the report submitted by NIMHANS.

19. The parties shall bear their respective costs.

20. Pending application(s), if any, shall stand disposed of.

..... J.
(UJJAL BHUYAN)

..... J.
(K. VINOD CHANDRAN)

NEW DELHI;
JUNE 25, 2025.