



2026:DHC:2764



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

*Reserved on: 20<sup>th</sup> March, 2026*

*Pronounced on: 2<sup>nd</sup> April, 2026*

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CM(M) 2800/2024

VIMLENDU KUMAR JHA

.....Petitioner

Through: Mr. Arunav Patnaik, Mr. Atriroy Chowdhury, Mr. Nirbhay Nitya Nanda and Ms. Pragya Samal, Advocates alongwith Petitioner in-person.

versus

MINAL BHATNAGAR

.....Respondent

Through: Ms. Malavika Rajkotia, Ms. Akriti Tyagi and Ms. Trisha Gupta, Advocates.  
Respondent through VC.

**CORAM:**

**HON'BLE MR. JUSTICE AMIT SHARMA**

**JUDGMENT**

**AMIT SHARMA, J.**

1. The present petition under Article 227 of the Constitution of India, 1950, seeks following prayers: -

“a. Pass an order setting aside the order dated 03.06.2024 passed by the Ld. Judge 02, Family Courts, District Court, Saket, New Delhi;



- b. Pass an order for baby Gayatri to spend all such time with the Petitioner and his family in the Respondent's unavailability due to her work commitments;
- c. Pass an order granting unfettered visitation rights in favour of the Petitioner to meet his daughter, Gayatri Bhatnagar Jha for at least three (3) days in a week, including a day in the weekends;
- d. Pass an order allowing the Petitioner to communicate with his daughter on telephone/ video call at all times;
- e. Pass an order allowing the parents of the Petitioner to have unfettered access to their only granddaughter;
- f. Pass an order allowing the Petitioner to make all decisions on an equal footing with the Respondent relating to the child's education, including the choice of school, regular contact with the school for updates, involvement in curricular, co-curricular as well as extracurricular activities;
- g. Pass an order granting the Petitioner 50% of vacation time with his daughter, during her summer and winter holidays;
- h. Pass an order granting visitation rights to the Petitioner thereby allowing him to visit his daughter on all important festivals and occasions;
- i. Pass any other order(s) as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.”

2. At the very outset, it is appropriate to refer to the following sequence of events leading to filing of the present petition: -



i) The petitioner has filed a petition, HMA No.493/2024, under Section 13(1)(ia) of the Hindu Marriage Act, 1955<sup>1</sup>, against the respondent seeking divorce before the learned Family Court, South District, Saket, New Delhi, on 07.03.2024.

ii) During pendency of the said divorce petition, an application under Section 26 of the HMA was filed on behalf of the petitioner on 07.03.2024 for grant of the custody of the child- 'G' to the petitioner seeking the following prayers: -

“It is therefore, prayed that this Court may be pleased to:

- a) Allow the application and grant the ad interim custody of the child Gayatri Bhatnagar Jha to the Petitioner in the interest of justice;
- b) Pass any other Interim order for the well being of the minor child;
- c) Pass such further and other Orders as may be necessary in the interest of Justice.”

iii) On the aforesaid application, following order was passed by learned Family Court on 02.05.2024: -

“Admittedly, for more than a year, the parties are living separately. Their daughter namely Ms. Gayatri is in the care and custody of the respondent/mother. At present she is going to a playschool by the name of ‘Anand Pre School’ Gurgaon. The petitioner has made repeated attempts to make entry into the school and to get a gate pass issued to pick up the child from the school.

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<sup>1</sup> For short, ‘HMA’



Considering the fact that the child is very young just – 3 years of age (born on 22.03.2021) and is living with the mother exclusively since more than a year, and it is mother only who has admitted her to the playschool, the respondent is restrained from going to the playschool and meeting the child or taking her up from the school without specific orders of the court.

However, at the same time visitation rights are granted to the respondent. Respondent is permitted to meet the child in Children Room, Saket court complex, New Delhi on every 1st and 3rd Saturday of the month from 11 Am to 1 Pm. He is permitted to give gifts etc to the child. In order to make the child comfortable, the mother is permitted to sit in the Children Room though on a separate sofa and is expected not to create any hindrance in the meaningful visitation of the father and daughter.

In case, it becomes inconvenient for either of the parties who have a visitation on a given saturday, the same shall be compensated by a visitation on the subsequent saturday or any other day of the week with prior intimation to the other party. The communication regarding visitation/cancellation of the visitation be made at least one day in advance.

Copy of this order be given dasti to both the parties.

Petitioner is directed to file a reply to the Sec 26 Dv Act application before the NDOH with an advance copy thereof to the opposite party.”

**iv)** The aforesaid order dated 02.05.2024 was challenged by the petitioner by way of **CM(M) 2557/2024**, which was disposed of by learned Coordinate Bench, *vide* order dated 16.05.2024 by observing as under: -

“7. Mr. Jugal Wadhwa, learned counsel appears on advance notice and accepts notice on behalf of the respondent. Learned counsel submits that in the prayer clause, the petitioner has mentioned



prayers which have never been pressed before the learned Judge, Family Court, therefore, the present petition is not maintainable. Learned counsel submits that in the application moved before the learned Judge, Family Court, the petitioner has prayed for and since the same are being raised for the first time before this Court.

8. Pertinently, petitioner has prayed before this Court as follows:

“b. Pass an order granting unfettered visitation rights in favour of the Petitioner to meet his daughter, Gayatri Bhatnagar Jha for at least three (3) days in a week, including a day in the weekends;

c. Pass an order allowing the Petitioner to communicate with his daughter on telephone/ video call at all times;

d. Pass an order allowing the parents of the Petitioner to have unfettered access to their only granddaughter;

e. Pass an order allowing the Petitioner to make all decisions on an equal footing with the Respondent relating to the child's education, including the choice of school, regular contact with the school for updates, involvement in curricular, co-curricular as well as extracurricular activities;

f. Pass an order granting the Petitioner 50% of vacation time with his daughter, during her summer and winter holidays;

g. Pass an order granting visitation rights to the Petitioner thereby allowing him to visit his daughter on all important festivals and occasions;”

9. On being asked to the learned counsel for the petitioner to explain about the additional prayers raised before this Court, the learned counsel for the petitioner sought permission to withdraw the present petition with liberty to move before the learned Judge, Family Court with a fresh application and to make all the prayers as have been made before this Court in that application. It is submitted that the fresh application shall be made within three days before the learned Judge, Family Court. Accordingly, the petitioner is at liberty to file a fresh application before the learned



Judge, Family Court by taking all the pleas which have been taken before this Court within three days. Advance copy of the same be furnished to the respondent. The respondent shall file his reply within one week thereafter before the learned Judge, Family Court with an advance copy to the other side.

10. The learned Judge, Family Court thereafter to dispose of the said application after giving an opportunity to both the parties of being heard within four weeks.

11. In view of the above, the impugned order dated 02.05.2024 is set aside. However, the petitioner herein is permitted to meet the minor child in children room, Saket Court Complex, New Delhi on every first and third Saturday of the month from 11 am to 1 pm.

12. Permission to withdraw the petition is granted.”

v) In pursuance of the aforesaid order dated 16.05.2024, the petitioner preferred a fresh application under Section 26 of the HMA seeking the prayers as noted in paragraph 8 of the aforesaid order passed by learned Coordinate Bench in **CM(M) 2557/2024**, which was disposed of by learned Family Court *vide* impugned order dated 03.06.2024, by observing as under: -

“8. Having heard the submissions of both the parties and after giving thoughtful consideration to the facts and circumstances, I am of the opinion that whatever order is passed regarding visitation has to be keeping in mind the best interest of the child. This court while exercising the *parens patriae* jurisdiction has to consider the welfare of the child before passing of any order with regard to custody or visitation of the child. Undoubtedly the daughter of the parties is of a tender age- just 3 years old. Subjecting such a small child to a frequent change of custody between parents would not be a just decision as it might be very difficult for the child to adjust and can affect her physical and mental health. Further since the mother is having exclusive custody



of the child and taking care of all her needs - including her medical check-ups, her dietary habits, the child might suffer, if she is alienated from the mother even for a short period. As far as the role of father in schooling is concerned, I may note that the child is in play school only and no great decision at this stage are to be taken with regard to her education. The arrangement made in the previous order dated 02.05.2024 with regard to visitation can continue with an added relief that the petitioner is permitted to attend the school PTMs of the daughter. He can give his phone numbers, e-mail etc to the school authorities who shall update him by way of e-mails about the progress of the child as the schools these days keeps the parents updated regarding progress reports of the child, photographs of the events etc. held in the school. Apart from that all the other prayers sought by way of this application are expressly denied.

9. With these observations, the instant application stands disposed off.”

vi) Hence, the present petition has been filed, *inter alia*, assailing the aforesaid order.

3. Before this Court, the present petition was first listed on 06.01.2026, and thereafter, on 07.02.2026 and 16.02.2026. On 16.02.2026, this Court had interacted with the parties in the Chamber and listed the matter for 28.04.2026. In the meanwhile, the petitioner herein had preferred an SLP No(s).8730/2026 against the order dated 16.02.2026 before the Hon’ble Supreme Court, and the same was disposed of by Hon’ble Supreme Court *vide* order dated 12.03.2026 by observing as under: -

“We dispose of this Special Leave Petition by reserving liberty to the petitioner herein to seek advancement of his case from 28.04.2026 to an earlier date in the month of March itself so as to enable the petitioner herein to spend time with the minor daughter, *inter alia*, on 22.03.2026



which happens to be the birthday of the child.

Should such a request is made by the petitioner herein, the High Court shall consider the same having regard to the fact that the petitioner as the father of the child is seeking visitation reliefs and having regard to the circumstances in which the parties are placed.

We expect that the High Court would respond positively to the request made by the petitioner herein.

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

4. After passing of the order dated 12.03.2026 by Hon’ble Supreme Court, the present petitioner filed an application, **CM APPL. 16409/2026**, seeking early hearing of the captioned petition, and the same was allowed by this Court on 17.03.2026, and the matter was taken up for hearing on that day, and thereafter, on 19.03.2026, and 20.03.2026.

5. Learned counsel for the petitioner, at the outset, had submitted that there are other connected contempt petitions, **CONT.CAS(C) 1736/2024**, **CONT.CAS(C) 666/2025**, and **CONT.CAS(C) 935/2025**, preferred by the latter alleging wilful disobedience and non-compliance of the orders dated 23.10.2024, 23.09.2024, 30.05.2025 respectively passed by learned Predecessor Bench in the present petition with respect to the interim arrangements formulated with respect to his visitation with the minor child of the parties; however, he is not pressing the aforesaid contempt petitions at this stage, and had addressed arguments in the present petition only.

6. At this stage, it is pertinent to note that *vide* order dated 11.09.2025 learned Predecessor Bench of this Court had granted two weeks’ time for the



petitioner to address the arguments with respect to maintainability of the present petition under Article 227 of the Constitution of India in view of the judgment dated 16.10.2024 passed by Hon'ble Full Bench of this Court in **Dr. Geetanjali Aggarwal v. Dr. Manoj Aggarwal**<sup>2</sup>. Against the said order an **SLP Nos.28174-28175/2025** were preferred by the petitioner and same were disposed of by the Hon'ble Supreme Court *vide* judgment dated 09.10.2025 by observing as under: -

“Leave granted.

Learned counsel for the appellant as well as learned counsel for the respondent(s) submitted that CM(M) No.2800 of 2024 was filed prior to the pronouncement of the judgment of the full bench of the Delhi High Court in the case of *Dr. Geetanjali Aggarwal vs. Dr. Manoj Aggarwal* {2024 SCC Online Del 7220}.

On the day this CM(M) NO.2800 of 2014 was filed, there was no bar to file a Writ Petition under Article 227 of the Constitution of India inasmuch as such a bar, if any created by the pronouncement of the Full Bench, had not yet come into existence. In the circumstances, the question of maintainability of the Writ Petition filed by the petitioner herein does not arise in the instant case.

Consequently, we set aside the impugned order dated 11.09.2025. We request the High Court to consider CM(M) No.2800 of 2024 on merits and dispose of the same as expeditiously as possible and in accordance with law.

Learned counsel for the appellant submitted that the order dated 30.05.2025 need not be gone into on merits, as the said order pertains to visitation rights during the summer vacation and owing to passage of time, the issue has been rendered infructuous for the present.

His submission is placed on record.

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<sup>2</sup> 2024 SCC Online Del 7220



The Appeal is disposed of in the aforesaid terms.

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

7. In pursuance of the aforesaid judgment passed by Hon’ble Supreme Court, the impugned order dated 11.09.2025 passed by learned Predecessor Bench was set aside, and present petition was listed for hearing, and is pending adjudication since then.

### **SUBMISSIONS ON BEHALF OF THE PETITIONER**

8. Learned counsel for the petitioner has made the following submissions in the present petition: -

i) Attention of this Court has been drawn towards order dated 02.05.2024 passed by learned Family Court in HMA No.493/2024 which was assailed by the petitioner in the earlier petition, **CM(M) 2557/2024**, under Article 227 of the Constitution of India and submitted that the said order was assailed on account of the fact that the petitioner felt that he was not granted sufficient visitation rights by the learned Family Court.

ii) Thereafter, the petitioner, in pursuance of the liberty granted by learned Coordinate Bench *vide* order dated 16.05.2024 in the aforesaid petition, preferred an application on 18.05.2024 before learned Family Court seeking visitation rights and permission to allow the petitioner to take decisions pertaining to their minor child’s education and welfare with other prayers as recorded in paragraph 8 of the said order. It is the case of the petitioner that



learned Family Court *vide* the impugned order dated 03.06.2024 had impliedly denied the reliefs sought by him in the application under Section 26 of the HMA filed by him and had not appreciated the fact that the order dated 02.05.2024 was set aside by the learned Coordinate Bench of this Court. It is further submitted that the petitioner has been deprived of playing a role in the education of his daughter. It is further submitted that learned Family Court has erred in observing that the arrangement made in the previous order dated 02.05.2024 with regard to visitation can continue with an added relief that the petitioner is permitted to attend the school PTMs of his daughter, despite the fact that the said order was set aside by this Court, and the subject application was filed seeking unsupervised visitation rights. It is submitted that he was already permitted to meet his daughter on every 1st and 3rd Saturday of the month from 11:00 AM to 01:00 PM in the Children's Room, Saket, New Delhi.

**iii)** Attention of this Court has been drawn towards the chats/messages of the petitioner with the school coordinator to show that the petitioner has never misbehaved with the school staff and had always been cordial with them. Further, attention of this Court has been drawn towards the several orders dated 02.09.2024, 23.09.2024, 23.10.2024, 30.05.2025 passed by learned Predecessor Bench of this Court to show that the petitioner was granted interim visitation initially on 02.09.2024 which was continued thereafter on several occasions. It is further submitted that the interim visitations granted to the petitioner by the aforesaid orders were not granted to him and he had filed contempt petitions alleging wilful disobedience of the said orders, as noted



hereinabove. The interim visitations were granted to the petitioner *vide* orders dated 02.09.2024, 23.09.2024, 23.10.2024 by learned Predecessor Bench of this Court in the following terms: -

a) *Vide* order dated 02.09.2024, it was directed as under: -

“5. In the interregnum, it will be appropriate if there is a video call through whatsapp or through any other acceptable mode between the petitioner and her daughter every Wednesday for ten minutes between 5:00 p.m. to 7:00 p.m., as per the convenience of the respondent herein. Ordered accordingly.

6. This is, however, clarified that the above arrangement is till next date of hearing only and after hearing both the sides, it would be seen whether the above said arrangement needs any modification or not.”

b) *Vide* order dated 23.09.2024, it was directed as under: -

“4. In the interregnum, physical visitation happens as per the existing arrangement. However, with respect to communication between petitioner and his daughter through video-call through WhatsApp or through any other acceptable mode, the same would now take place on every Tuesday and every Thursday for 20 minutes between 5.00 PM to 7.00 PM as per the convenience of the respondent herein. It is clarified that the above arrangement is without prejudice to the rights and contentions of either of the parties and is only for the interregnum.”

c) *Vide* order dated 23.10.2024, it was directed as under: -

“5. In view of the coming festival of Diwali, as agreed between the parties, petitioner herein is permitted to meet his daughter at Tickle Wickle, Golf Course Road, Gurgaon on 24.10.2024 from 12.00 noon to 2.00 pm.

6. Though learned counsel for respondent states that such



visitation be also supervised one, it will be, however, in the fitness of the things if during the aforesaid visitation, the respondent, may though remain present in the premises, but not within the visible distance. She may remain in the reception/lobby area so that in case her daughter wants her for any reason, she is available to her.”

iv) Attention of this Court has also been drawn towards the pictures captured by the petitioner with his daughter during visitation in Children's Room in Saket to show that he has developed a bond with his daughter and has cordial relation with her and is sharing a loving and affectionate relationship with her. Reliance has also been placed on pictures of the petitioner with his daughter in their Farm in Alwar prior to their separation. It is further submitted that the visitations in terms of the impugned order are still continuing and his daughter is interacting very well with him. It is further submitted that, in the present petition, learned Predecessor Bench of this Court *vide* order dated 30.05.2025, after hearing arguments on behalf of the parties with respect to the issue whether the petitioner could be granted 50% of summer vacations period (24.05.2025 to 01.07.2025) time to be spent with his daughter, had observed as under: -

“33. The petitioner, as a father, is very much entitled to seek additional visitations, to which even the opposite side has, more or less, no objection.

34. The question is, however, with respect to unsupervised visitation, away from the sight of respondent.

35. Earlier, when the child was taken to *Tickle Wickle*, as per the directions given by this Court, though respondent was permitted to remain in premises, but not within visible distance.

36. The question is whether such arrangement is good enough and can



be said to be an appropriate substitute to unsupervised visitation.

37. And yes, as already noted above, presently, we are concerned with summer break period only.

38. During course of the arguments, the respondent had submitted that for her business exigency, she may have to be in Jaipur, during whole of the June. At the same time, however, she submits that the visitation rights, as already directed by the learned Judge, Family Court, would be duly honoured and, as noted already, she is ready to enhance the visitation hours and its frequency, but not agreeable to unsupervised visitation.

39. There is no law that such unsupervised visitation can only be granted with the consent of opposite side.

40. The Court has to weigh up various important factors and has to adjudicate while considering the age and best interest of any such child. Interaction with child, particularly when she is of tender age, does not give any real insight, at times, but the recent videos can give some indication as to how such child feels when with the other parent.

41. The bond between any father and his daughter is a very pious one.

42. Its importance and significance cannot be undermined and understated in any manner whatsoever. In the words of Ama H.Vanniarachchy, a Sri Lankan writer- "A father's tears and fears are unseen, his love is unexpressed, but his care and protection remains as a pillar of strength throughout our lives."

43. The warring parents, unfortunately, do not know that solution in such type of delicate matters is, generally, with them only and no court has a magic wand. In adversarial system, it becomes difficult to strike a balance and, therefore, even during arguments, umpteen times, this Court kept on asking for amicable solution from the parties.

44. They both, though, acted in a mature manner with least of allegations and counter-allegations, also broke down during hearing and are, seemingly, anxious, fearful, worried and apprehensive about the outcome.

45. Fact, however, remains that a father is not to beg for his love for his



daughter.

46. It's his birth-right and merely because daughter is of tender age would not mean that any such father, automatically, becomes unfit to take due care of her.

47. The petitioner herein has a good profile and is in the field of education and he can very well anticipate the needs of his daughter and thus to deny unsupervised visitation, when the child is already 4+, would not be appropriate, particularly, when the visitations, twice a month, are already happening. There seems to exist a connect between petitioner and his daughter, as would be visible from the videos placed on record. It, therefore, cannot be said she does not like company of her father.

48. However, at the same time, everything needs to be steady and gradual.

49. There is no thumb rule that 50% of the vacation any child has to be with one parent and for the rest, it has to be with the other.

50. A modern-age child wants quality time for himself, too. Any such child is entitled to pursue his hobbies in his own style and, therefore, he requires independent time - independent of his parents. Every school-going tiny-tot, anxiously and impatiently, awaits for summer break or winter break. They, generally, have their own plans for enjoying such break in the best possible manner but, fact remains that when there is custody battle, at times, it spoils such break and the warring parents do not understand the underlying damage, caused on account of frequent swapping of custody.

51. There cannot be, thus, any straightjacket formula in such type of matters and each case has to be considered keeping in mind its peculiar factual matrix. Thus, the demand for 50% of the parenting-time during the ongoing summer break would be little unwarranted, at this juncture.

52. Nonetheless, for the month of June, the petitioner is entitled to have four more additional visitations, over and above the two existing visitations. Duration of such visitation (six in number) shall be of three hours each and these may take place at any mutually acceptable neutral place, which can be any decent public place, play-area or Mall or



Museum or any other place of child-interest. The mother may though be present during such six visitations but would not be within the visible distance.

53. In addition to above and to begin with, the petitioner is also granted two unsupervised visitation of six hours duration each in the month of June, 2025. During such unsupervised visitation, he would be permitted to pick up his daughter from the residence of his wife at 10:00 am and would drop her back at the residence of his wife at 4:00 pm. Since the residences of the petitioner and respondent are in close proximity, the transportation time is not going to make any substantial difference.

54. The petitioner is a working professional and so is the respondent and, therefore, this Court does not want to put them into any air-tight compartment. They both, being mature and understanding enough, would decide the dates of all such June-visitations, including the unsupervised one. These can be in continuity or spread across the month. Mutually acceptable dates would ensure that their respective professional schedule also does not get disturbed, unnecessarily.

55. However, in case, they fail to do so and the dates are not mutually decided within three days, the matter, on advance mentioning, be placed before learned Vacation Bench of this Court on 04.06.2025 for limited purpose of fixing up dates for all such eight visitations (including two unsupervised) for June month.”

v) Reliance has been placed by learned counsel on the following observations in the judgment passed by Hon’ble Supreme Court in **Ruchi Majoo v. Sanjeev Majoo**<sup>3</sup>, which read thus: -

“73. It is important that the minor has his father's care and guidance, at this formative and impressionable stage of his life. Nor can the role of the father in his upbringing and grooming to face the realities of life be undermined. It is in that view important for the child's healthy growth that we grant to the father visitation rights; that will enable the two to stay in touch and share moments of joy, learning and happiness with each other. Since the respondent is living in another continent

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<sup>3</sup> (2011) 6 SCC 479



such contact cannot be for obvious reasons as frequent as it may have been if they were in the same city. But the forbidding distance that separates the two would get reduced thanks to the modern technology in telecommunications.

**74.** The appellant has been according to the respondent persistently preventing even telephonic contact between the father and the son. May be the son has been so poisoned against him that he does not evince any interest in the father. Be that as it may telephonic contact shall not be prevented by the appellant for any reason whatsoever and shall be encouraged at all reasonable time. Videoconferencing may also be possible between the two which too shall not only be permitted but encouraged by the appellant.

**75.** Besides, the father shall be free to visit the minor in India at any time of the year and meet him for two hours on a daily basis, unhindered by any impediment from the mother or her parents or anyone else for that matter. The place where the meeting can take place shall be indicated by the trial court after verifying the convenience of both the parties in this regard. The trial court shall pass necessary orders in this regard without delay and without permitting any dilatory tactics in the matter.

**76.** For the vacations in summer, spring and winter the respondent shall be allowed to take the minor with him for night stay for a period of one week initially and for longer periods in later years, subject to the respondent getting the itinerary in this regard approved from the Guardians and Wards Court. The respondent shall also be free to take the minor out of Delhi subject to the same condition. The respondent shall for that purpose be given the temporary custody of the minor in presence of the trial court, on any working day on the application of the respondent. Return of the minor to the appellant shall also be accordingly before the trial court on a date to be fixed by the court for that purpose.”

**vi)** It is further submitted that the petitioner and respondent are residing in close vicinity. Reliance has also been placed on Child Access & Custody Guidelines along with Parenting Plan by Child Rights Foundation, an NGO,



which have been circulated for guidance and information by various High Courts of the country. Attention of this Court has been drawn towards the Local Guidelines provided in Chapter-3 with respect to 'C. Final Visitation (Children between Age 0 to 36 months & Older)' which reads as under: -

**“C. FINAL VISITATION (CHILDREN BETWEEN AGE 0–TO-36 MONTHS)**

The following visitation guidelines should balance the needs of both parent and child, regardless of whether that child has older siblings that enjoy extended visitation with the Non-custodial parent.

32. **WEEKENDS:** The Non-custodial parent shall be entitled to overnight weekend visitation every weekend. For children between 0 to 36 months visitation shall be between 11.00 A.M. to 2.00 P.M. or 4.30 P.M. to 7.30 P.M. on Saturday and Sunday and Twice (two times) during weekday between Monday to Friday for 1½ hours (90 Minutes). One of the most important considerations is for attachment with both parents. It is important for visitation to provide opportunities to establish a bond between the child and the parent. Generally, frequency of visitation is given more consideration than duration of visitation. Making up for less frequent visits by increasing the length of time of visits is not recommended for infants recommended daily visits, but if this is impractical, then visits should be spaced no more than two days apart. There is research, however, to show that overnight visits with the parent can occur, provided that the parent has been a significant caretaker and a primary attachment figure.

33. **WEEKDAY VISITATION:** The Non-custodial parent shall be entitled to visitation two (2) evenings per week during weekday between Monday to Friday for 1½ hours (90 Minutes). These shall be the same two evenings every week and varied only if the weekday visitation schedule conflicts with the holiday or vacation schedule. If the parties cannot agree, weekday visitation shall be on Monday and Wednesday.

34. **HOLIDAYS:** The non-custodial parent shall be entitled to spend at



least 3 Three hours on the holiday or festival day including 15th August, 26th January, 1st May (Maharashtra day;) , 2nd October (Gandhi Jayanti), 14th November (Children's day) excluding the time of travel. Only where it is not possible to share during the festival day due to reasons of distance or otherwise. In odd-numbered years, the Non-custodial parent shall be entitled to spend with the minor child; in even numbered years, the schedule shall be reversed. A party's entitlement to Holiday visitation overrides the other party's right to regularly scheduled weeknight or weekend visitation. If either or both parties celebrate other holidays, such holidays should be written down, divided and alternated each year.

Note: For children aged between 0 to 36 months it shall be open for the custodial parent to remain present during visitation.

- i. Visitation shall be from 11:00 a.m. until 2:00 p.m. or from 4:00pm to 7:00pm on the official holiday.
- ii. Mother's day Shall be spent with the mother every year with priority over any other visitation schedule; visitation hours shall be from 11:00 a.m. until 2:00 pm or 4:00pm to 7:00pm.
- iii. Father's day shall be spent with the father every year with priority over any other visitation schedule; visitation hours shall be from 11:00 am. until 2:00 p.m. or 4:00pm to 7:00pm
- iv. Diwali / Eid / Moharram / Makarsakaranti / Janmashtmi/Mahavir Jayanti / Mahashivratri / Ramnavi / Parsi New Year / Dussera / Laxmipoojan / Bhau Bheej / Gurunanak Jayanti / Raksha Bandhan / Navratri / Ganesh Chaturthi / Anant Chaturthi / Holi visitation to the non-custodial parent shall be for a period of 3 three thours excluding travelling time and timings shall be decided between the parties mutually.

35. FESTIVALS WEEKEND OVERNIGHT ACCESS : Festivals which last for more than seven days especially Navratri, Ganpati and Ramzan and for which long holidays are not available to the child the non-custodial parent shall be entitled to one weekend overnight stay during this stretch of festival. A party's entitlement to this festival weekend overnight stay overrides the other party's right to regularly scheduled weeknight or weekend visitation.

36. MOTHER'S BIRTHDAY: shall be spent with the mother every



year. If the mother is the Non-custodial parent and the mother's birthday is on Sunday, Monday, Tuesday, Wednesday, or Thursday, visitation hours shall be from 5:00 p.m. until 8:00 p.m. If the mother's birthday is on Saturday or Sunday, visitation shall be from 11:00 a.m. to 4.00 p.m. This visitation will not affect holiday visitation.

37. FATHER'S BIRTHDAY: shall be spent with the father every year. If the father is the Non-custodial parent and the father's birthday is on Sunday, Monday, Tuesday, Wednesday, or Thursday, visitation hours shall be from 5:00 p.m. until 8:00 p.m. If the father's birthday is on Saturday or Sunday, visitation shall be from 11:00 a.m. to 4.00 p.m. This visitation will not affect holiday visitation.

38. CHILD'S BIRTHDAY: The child shall celebrate his or her birthday with the Noncustodial parent in odd-numbered years and the custodial parent in evennumbered years. In years that the child spends his or her birthday with the Noncustodial parent, if the child's birthday falls on Sunday, Monday, Tuesday, Wednesday, or Thursday, visitation shall be from 5:00 p.m. until 8:00 p.m.; if the child's birthday falls on Saturday or Sunday, visitation shall be from 11:00 a.m. to 4.00 p.m.. The parent holding a birthday party for the child may wish to consider inviting the other parent.

39. ANNUAL VISITATION FOR CHILDREN (UNDER AGED 0-TO-36 MONTHS): Unless otherwise agreed to by the parties, regular weekend and weekday visitation shall be maintained year round in lieu of a designated annual visitation period.

#### D. FINAL VISITATION (CHILDREN 36 MONTHS AND OLDER)

40. WEEKENDS: The Non-custodial parent shall be entitled to weekend visitation every other weekend. Visitation shall begin Friday at 6:00 p.m. and end at 6:00 p.m. on Sunday. If parties wish to avail continuous every week access then every weekend access shall begin from Friday at 6.00 p.m. and end on Saturday 6.00 p.m. or Saturday 6.00 p.m. to Sunday 6.00 p.m. It is not the responsibility of the custodial parent to provide food or shelter for the child during the Non-custodial parent's visitation.

41. WEEKDAY VISITATION: If the parties reside within thirty (30)



Kilometers driving distance of each other, the Non-custodial parent shall have visitation two (2) evening per week for 2 two hours between 6.00 p.m. to 8.00 p.m., but shall exercise the weekday visitation in the locale of the child's primary residence or within the radius of 10 ten kilometers. The preceding sentence shall not preclude occasional travel beyond the thirty (30) Kilometers for special weekday events. The weekday visitation shall be on the same evening each week and varied only if it conflicts with the holiday or vacation schedule. If the parties cannot agree on the weeknight and if there are no scheduled activities for Wednesday, it shall be Wednesday evening. If there are activities scheduled for Wednesday, the Noncustodial parent shall have first choice of an alternate weekday for weekday visitation.

42. HOLIDAYS: The non-custodial parent shall be entitled to spend at least 4 Four hours on the holiday or festival day including 15th August, 26th January, 1st May (Maharashtra day ) , 2nd October (Gandhi Jayanti), 14th November (Children's day) excluding the time of travel. Only where it is not possible to share during the festival day due to reasons of distance or otherwise. In odd-numbered years, the Non-custodial parent shall be entitled to spend with the minor child; in even numbered years, the schedule shall be reversed. A party's entitlement to Holiday visitation overrides the other party's right to regularly scheduled weeknight or weekend visitation. If the parties celebrate religious holidays other than those defined in sections A and B below, those religious holidays shall be mutually agreed upon in writing, divided, and alternated each year. In the absence of an agreement, the court shall allocate those religious holidays between the parties.

I Visitation shall be from 11:00 a.m. until 3:00 p.m. or 4.00 p.m. to 8.00 p.m. on the official holiday.

ii. Mother's day Shall be spent with the mother every year with priority over any other visitation schedule; visitation hours shall be from 11:00 a.m. until 3:00 p.m. or 4.00 p.m. to 8.00 p.m. Father's day shall be spent with the father every year with priority over any other visitation schedule; visitation hours shall be from 11:00 a.m. until 3:00 p.m. or 4.00 p.m. to 8.00 p.m.

iii. Diwali / Eid / Moharram / Makarsakaranti / Janmashtmi / Mahavir Jayanti / Mahashivratri / Ramnavi / Parsi New Year / Dussera / Laxmi



poojan / Bhau Bheej / Gurunanak Jayanti / Raksha Bandhan / Navratri / Ganesh Chaturthi / Anant Chaturthi / Holi visitation to the non-custodial parent shall be for a period of 4 Four hours excluding travelling time and timings shall be decided between the parties mutually.

NOTE: Non-custodial parent shall be entitled to take the child at his residence during this period of access.

43. **FESTIVALS WEEKEND OVERNIGHT ACCESS** : Festivals which last for more than seven days especially Navratri, Ganpati and Ramzan and for which long holidays are not available to the child the non-custodial parent shall be entitled to one weekend overnight stay during this stretch of festival. A party's entitlement to this festival weekend overnight stay overrides the other party's right to regularly scheduled weeknight or weekend visitation.

44. **FIFTY % VACATION**: The non custodial parent shall be entitled to 50% of each vacation during the year the child has vacations for Diwali, Christmas and Summer.

45. **MOTHER'S BIRTHDAY**: shall be spent with the mother every year. If the mother is the Non-custodial parent and the mother's birthday is on Sunday, Monday, Tuesday, Wednesday, or Thursday, visitation hours shall be from 5:00 p.m. until 8:00 p.m. If the mother's birthday is on Saturday or Sunday, visitation shall be from 11:00 a.m. to 4.00 p.m. This visitation will not affect holiday visitation.

46. **FATHER'S BIRTHDAY**: shall be spent with the father every year. If the father is the Non-custodial parent and the father's birthday is on Sunday, Monday, Tuesday, Wednesday, or Thursday, visitation hours shall be from 5:00 p.m. until 8:00 p.m. If the father's birthday is on Saturday or Sunday, visitation shall be from 11:00 a.m. to 4.00 p.m. This visitation will not affect holiday visitation.

47. **CHILD'S BIRTHDAY**: The child shall celebrate his or her birthday with the Noncustodial parent in odd-numbered years and the custodial parent in evennumbered years. In years that the child spends his or her birthday with the Noncustodial parent, if the child's birthday falls on Sunday, Monday, Tuesday, Wednesday, or Thursday, visitation shall be from 5:00 p.m. until 8:00 p.m.; if the child's



birthday falls on Saturday or Sunday, visitation shall be from 11:00 a.m. to 4.00 p.m.. The parent holding a birthday party for the child may wish to consider inviting the other parent.”

**vii)** Further, attention has also been drawn towards the Chapter 1: Interim Visitation with respect to visitation guidelines for Children between 0 to 36 months & older as well. The relevant portion of the said interim visitation guidelines reads thus: -

### **“INTERIM VISITATION**

The following visitation guidelines should balance the needs of both parent and child, regardless of whether that child has older siblings that enjoy extended visitation with the Non-custodial parent.

**A. VISITATION (CHILDREN AGED BETWEEN 0 TO 36 MONTHS)** The following visitation guidelines should balance the needs of both parent and child, regardless of whether that child has older siblings that enjoy extended visitation with the Non-custodial parent.

1. **WEEKENDS:** The Non-custodial parent shall be entitled to weekend visitation every weekend. For children between 0 to 36 months visitation shall be between 11.00 A.M. to 2.00 P.M. or 4.30 P.M. to 7.30 P.M. on Saturday and Sunday during the weekend and Twice (two times) during Weekday between Monday to Friday for 1½ hours (90 Minutes).

2. **WEEKDAY VISITATION:** The Non-custodial parent shall be entitled to visitation two (2) evenings per week during weekday between Monday to Friday for 1½ hours (90 Minutes). These shall be the same two evenings every week and varied only if the weekday visitation schedule conflicts with the holiday or vacation schedule. If the parties cannot agree, weekday visitation shall be on Monday and Wednesday.

3. **HOLIDAYS:** The non-custodial parent shall be entitled to spend at



least 3 Three hours on the holiday or festival day including 15th August, 26th January, 1st May (Maharashtra day;) , 2nd October (Gandhi Jayanti), 14th November (Children's day) excluding the time of travel. Only where it is not possible to share during the festival day due to reasons of distance or otherwise. In odd-numbered years, the Non-custodial parent shall be entitled to spend with the minor child; in even numbered years, the schedule shall be reversed. A party's entitlement to Holiday visitation overrides the other party's right to regularly scheduled weeknight or weekend visitation. If either or both parties celebrate other holidays, such holidays should be written down, divided and alternated each year.

Note: For children aged between 0 to 36 months it shall be open for the custodial parent to remain present during visitation.

i. Visitation shall be from 11:00 a.m. until 2:00 p.m. or 4.00 p.m. to 7.00 p.m. on the official holiday.

#### B. VISITATION (CHILDREN 36 MONTHS AND OLDER)

4. WEEKENDS: The Non-custodial parent shall be entitled to weekend visitation every other weekend or every weekend one night every week. Every other weekend Visitation shall begin Friday at 6:00 p.m. and end at 6:00 p.m. on Sunday. If every weekend visitation is opted then every week overnight visitation shall begin either from every Friday at 6.00 p.m. and end on Saturday 6.00 pm. or from every Saturday 6.00 p.m. and end on 6.00 p.m on Sunday. It is not the responsibility of the custodial parent to provide food or shelter for the child during the Non-custodial parent parent's visitation.

5. WEEKDAY VISITATION: If the parties reside within thirty (30) Kilometers driving distance of each other, the Non-custodial parent shall have visitation two (2) evening per week for 2 two hours between 6.00 p.m. to 8.00 p.m., but shall exercise the weekday visitation in the locale of the child's primary residence or within the radius of 10 ten kilometers. The preceding sentence shall not preclude occasional travel beyond the thirty (30) Kilometers for special weekday events. The weekday visitation shall be on the same evening each week and varied only if it conflicts with the holiday or vacation schedule. If the parties cannot agree on the weeknight and if there are no scheduled activities for Wednesday, it shall be Wednesday evening



for 2 hours. If there are activities scheduled for Wednesday, the Non-custodial parent shall have first choice of an alternate weekday for weekday visitation

6. **HOLIDAYS:** The non-custodial parent shall be entitled to spend at least Three (3) hours on holidays and festival day excluding the time of travel. Only where it is not possible to share during the holidays and festival day due to reasons of distance or otherwise. A party's entitlement to Holiday visitation overrides the other party's right to regularly scheduled weeknight or weekend visitation. If either or both parties celebrate other holidays, such holidays should be written down, divided and alternated. In the absence of an agreement, the court shall allocate religious holidays between the parties. i. Visitation shall be from 11:00 a.m. until 2:00 p.m. Or from 4.00pm to 7.00pm on the official holiday.

7. **CHILDREN COMPLEX ROOM:** Where access even though either agreed by mutual consent or ordered by the court is not being granted to the non-custodial parent, Children's complex room situated in the premises of the Family Courts or such other place as either mutually agreed or directed by the court such as premises made available and approved by the Hon'ble Family court shall be used for purposes of counseling the child or the parent for a specific period and thereafter access can continue as per schedule set forth.”

viii) Reliance has also been placed on the judgment passed by Hon'ble Supreme Court in **Rohith Thamma Gowda v. State of Karnataka & Ors.**<sup>4</sup>, and particularly, on the following observations: -

“11. At the outset we may state that in a matter involving the question of custody of a child it has to be borne in mind that the question “what is the wish/desire of the child” is different and distinct from the question “what would be in the best interest of the child”. Certainly, the wish/desire of the child can be ascertained through interaction but then, the question as to “what would be in the best interest of the child” is a matter to be decided by the court taking into account all the relevant circumstances.

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<sup>4</sup> (2022) 20 SCC 550



12. When couples are at loggerheads and wanted to part their ways, as Parthian shot they may level extreme allegations against each other so as to depict the other unworthy to have the custody of the child. In the circumstances, we are of the view that for considering the claim for custody of a minor child, unless very serious, proven conduct which should make one of them unworthy to claim for custody of the child concerned, the question can and shall be decided solely looking into the question as to, “what would be the best interest of the child concerned”. In other words, welfare of the child should be the paramount consideration. In that view of the matter we think it absolutely unnecessary to discuss and deal with all the contentions and allegations in their respective pleadings and affidavits.”

ix) Reliance has also been placed on the judgment passed by the learned Division Bench of this Court in **Vishal Verma v. State Govt. of NCT of Delhi & Ors.**<sup>5</sup>, and particularly, on the following observations: -

“12. Ld. Counsel for the Petitioner has relied upon the decision of the Madras High Court in **V. Anusha v. B. Krishnan [(2022) SCC Mad 4609]** where under similar facts, the Court had directed interim custody to the mother after recording that the father was making the child develop animosity towards the mother. The observations of the Madras High Court are as under:

*“20. A perusal of the above, it is clear that the respondent has just throwing the blame on the children stating that the children themselves are not interested to go and stay with the mother and that he cannot force them and it is beyond his hands and in the Court orders, there is no specific role mentioned directing the respondent to act in the matter of convincing and handing over the children to the applicant. Even, when a high drama took place in the open Court while handing over the custody of the children to the applicant since the children were very much reluctant to go with their mother, the respondent has not taken any initiative either to convince them or atleast to assure them that he also accompanies to them till the residence of the*

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<sup>5</sup>2025: DHC: 200-DB



*applicant. This would clearly prove the aspect of parental alienation on the part of the father of the children. The inability to advice and persuade the children, further evident the respondent's inability and incapability to maintain and keep the custody of the children any more.*

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*22. To turn a child against a parent is to turn a child against himself. Parental alienation is inhuman and it is menace to a child, who direly needs two hands to hold both the mother and father till he/she walks throughout the life or at least till he/she attains majority. In fact, hatred is not an emotion that comes naturally to a child against his/her mother/father unless it is taught by the person whom the children believes. A parent indulging in parental alienation, means, he/she is polluting the tender mind of the innocent child by potraying the mother/father as a villian, which would have a considerable impact on him/her throughout his/her life and he/she develops ill feelings towards the parent and started hating his own father/mother.*

*23. This Court, on occasions, has witnessed the behviour of the children in open Court while entrusting the interim custody or visitation rights to one of the parents, not only expressing sheer protest to join the parent but also questioning the parent as, who is he/she? This is only because of parental alienation. But due to the parental alienation, the child is not in a position to express it openly in front of the alienated parent. In reality, the child would react otherwise when he/she happens to see a family living together happily with children and the child may feel much envy and curse his/her fate, which means the child needs love and affection of both the parents. In the present case also, this Court witnessed high drama when the children were being handed over to the applicant/mother. If the children continue to hate their mother due to parental alienation, it will cause mental and physical disorders including psychological pain, anger and depression, which*



*in the opinion of this Court, would certainly cause harm to the welfare of the children.*

*24. If the respondent is incapable to teach or persuades the children to love their own mother, then there involves a serious parental alienation which is not good for the welfare of the children. Welfare of the child is paramount consideration, but being with the parent who is not ready to teach and persuade his children to love their own mother, cannot be accepted. It is pertinent to note that the applicant and respondent are just separated from being husband and wife, but they will always be the father and mother for their children. The said relationship of father and mother will not be changed despite the parents re-marry with any other.*

*25. The respondent/father who possesses the custody of the minor children with him, must understand and feel the same pain and suffering undergoing by the applicant/mother, who all along lost the company of her children. It is not fair on the part of the respondent in not accommodating the children to spend with their mother and allowing the mother to spend with her children despite the orders of this Court granting visitation rights to the applicant/mother.*

*26. Children have a fundamental right and need for an unearthened and loving relationship with their father and mother and denying the said right of the children, would amount to child abuse. In the present, the respondent, without justification, has been indulging in such child abuse. For the parent who didn't get the custody, the loss is irreconcilable. Only when there is healthy co-parenting, the children will lead a happier childhood instead of becoming an emotionally broken adults who will in turn become not understanding and unsympathetic citizens.*

*27. The dominant matter for the consideration of the Court is the welfare of the child. But the welfare of a child is not to be measured only by money and by physical*



*comfort. Welfare is an all-encompassing word. It includes material welfare; both in the sense of adequacy of resources to provide a pleasant home and a comfortable standard of living. While material considerations have their place, they are secondary matters, the primary considerations of matters are the stability and the security, the loving and understanding, care and guidance, the warm and compassionate relationships that are essential for the full development of the child's own character, personality and talents.*

28. *In this case, prima facie it appears that the respondent poisons the minors' minds against the mother and acted against the welfare of the minors. Tutoring of the children by the respondent to keep them in his custody will result in nurturing hatred towards their mother, which will certainly affect the welfare of the children.*

29. *In such view of the matter, for the healthy growth of the minor children, it would be appropriate not to continue their custody with the respondent. If their custody continues with the respondent, certainly, there is very high probability that they will be influenced to such an extent that they will never want to return to their mother, it will cause mental and physical disorders including psychological pain, anger and depression, which would certainly cause harm to the welfare of the child.*

*30. A parent, in whose custody, the children are staying, it is the prime duty of the said parent, having custody of the children, to teach the children about the importance of the other parent and how to move with the said parent, who is none other than their mother/father and co-operate with the other parent who visits to see the children. Due to indifferences, seperation may be between the wife and husband only, but it does not mean that children should also be separated from their own parents.”*

13. The postponement of the visitation to the Petitioner -father and to the paternal grandparents would further result in deprivation to the child and to the paternal side of the child from the company of the



child.

14. It is also clear that the child continues to be traumatised and alienated after staying alone only with the mother over so many months. There has not been even a single unsupervised visitation with the father and his family after the visitation during Diwali of 2022 when the child visited the father's house.

15. Post Diwali of 2022, it is not in dispute that the child has only spent time only in a supervised manner with the father, either in the Court premises or in the mediation centres, etc.”

x) Reliance has also been placed on the judgment of learned Division Bench of this Court in **Suman Shankar Bhunia v. Debarati Bhunia Chakraborty**<sup>6</sup>, with respect to the apprehension and stand of the respondent that the child is of tender age/years and it would not be appropriate to grant unsupervised custody of the child in such circumstances to the petitioner. The relevant observations of the said judgment read thus: -

“35. We have heard learned counsel for the parties at considerable length and, with their able assistance, have carefully perused the pleadings, evidence, and the record of the case. We have also had the benefit of interacting with the minor children on 15.12.2025, which interaction has aided us in appreciating certain aspects bearing upon their welfare.

36. At the outset, we deem it necessary to deal with the contention of the so-called Tender Years Doctrine. We believe that this doctrine is founded on a highly stereotypical premise. In the present day and age and the time in which we currently inhabit this Earth, and having regard to the advancement in the social and cultural ethos of society and the sensitivities that now prevail, the invocation of the Tender Years Doctrine in custody battles such as the present one may no longer be apposite.

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<sup>6</sup> 2026 SCC OnLine Del 276



37. Historically, the doctrine appears to have evolved at a time when societal norms rigidly ascribed the role of breadwinner to the father and that of homemaker and primary caregiver to the mother, with attendant responsibility for the day-to-day upbringing of children. Such rigid compartmentalisation of parental roles no longer accords with contemporary realities, more so in cases where both spouses are gainfully employed and leading their respective lives in fairly urbanised towns or cities.

38. It would, therefore, be more prudent for courts to anchor the adjudication of custody disputes firmly in the overarching principle of the best interests of the children, rather than in presumptive doctrines. It is this exercise that we propose to undertake in the present appeal.

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41. In custody disputes, and particularly between estranged spouses, it is not uncommon to find allegations and counter-allegations being levelled, at times in an exaggerated or unsubstantiated manner. While this Court cannot dictate the contours of pleadings that parties may choose to file, it considers it necessary to observe that both litigants and counsel must exercise restraint and responsibility. Pleadings or recourse to legal processes which are calculated to harass, prejudice, or needlessly malign the other party ought to, as far as possible, be eschewed.

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55. We now turn to the wishes of the children. There can be no quarrel with the proposition that the views of a child, particularly one of sufficient age and understanding, merit due and careful consideration. However, the Court must remain vigilant to ensure that such wishes are not merely echoes of a sustained narrative shaped by prolonged exposure to one-sided perceptions.

56. The pronounced and unyielding hostility expressed by the son towards the father, seen in the backdrop of prolonged minimal contact and systematic exclusion, appears not to stem from an independent or spontaneous articulation, but is more consistent with a conditioned or influenced response. A child's preference, when formed in an



environment marked by alienation, cannot be elevated to a veto over judicial determination, for to do so would be to allow the consequences of alienation to harden into its justification. The law in this regard has been succinctly laid down by the Hon'ble Supreme Court in Rohith Thammana Gowda v. State of Karnataka<sup>24</sup>, of which the relevant portion reads as follows:

“11. At the outset we may state that in a matter involving the question of custody of a child it has to be borne in mind that the question ‘what is the wish/desire of the child’ is different and distinct from the question ‘what would be in the best interest of the child’. Certainly, the wish/desire of the child can be ascertained through interaction but then, the question as to ‘what would be in the best interest of the child’ is a matter to be decided by the court taking into account all the relevant circumstances.

12. When couples are at loggerheads and wanted to part their ways as parthian shot they may level extreme allegations against each other so as to depict the other unworthy to have the custody of the child. In the circumstances, we are of the view that for considering the claim for custody of a minor child, unless very serious, proven conduct which should make one of them unworthy to claim for custody of the child concerned, the question can and shall be decided solely looking into the question as to, ‘what would be the best interest of the child concerned’. In other words, welfare of the child should be the paramount consideration. In that view of the matter we think it absolutely unnecessary to discuss and deal with all the contentions and allegations in their respective pleadings and affidavits.”

(emphasis added)

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62. At this juncture, it is apposite to note the observations of the Madras High Court in X v. Y<sup>25</sup>, wherein the Court observed that situations of parental alienation may, over time, operate to the



emotional detriment of a child. Where a child is repeatedly exposed to fear or hostility towards one parent, such an environment can adversely affect the child's welfare. The Court further observed that a child's expressed reluctance in such circumstances may not always represent an independent or fully informed preference, and that prolonged restriction of access to one parent may impair the child's entitlement to the love, care, and affection of both parents. The relevant portions of the said judgment are reproduced hereinbelow for reference: ....

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69. A wholesome upbringing demands more than periodic visual access; it requires the daily, tangible presence of a parent who can guide, correct, comfort, and nurture. The presence of the father in the lives of the children is not a matter of parental entitlement but a facet of the children's own right to balanced emotional development. Having regard to the totality of circumstances, and particularly the need to restore and preserve the children's access to both parents in real and meaningful terms, we are satisfied that their welfare is best secured by their continued residence in India under the custody of the Respondent-father, with the Appellant-mother participating in their lives through structured access and responsible co-parenting.”

**xi)** Attention of this Court has also been drawn towards the pictures of the petitioner and his daughter and chats/messages transpired between the parties, prior to their separation, when the respondent had travelled to Goa in September 2022 (specific date mentioned in picture & chat/message is 14.09.2022), and the petitioner was taking care of their minor daughter/child. It is pointed out that the parties separated in July 2023.

**xii)** It is further the case of the petitioner that he had a good relationship with their daughter and alienation has happened due to the limited access and visitations granted to him with his daughter.



**xiii)** It is, therefore, prayed that the impugned order dated 03.06.2024 be set aside and the petitioner be granted unfettered visitation rights with his daughter as prayed and noted in the prayers, as noted hereinabove.

### **SUBMISSIONS ON BEHALF OF THE RESPONDENT**

**9.** Learned counsel for the respondent, while refuting the contentions raised on behalf of the petitioner, has made the following submissions: -

**i)** It is the case of the respondent that the jurisdiction of this Court in exercise of jurisdiction under Article 227 of the Constitution of India is very limited, and the disputed question of facts cannot be decided in the present petition. It is submitted that under Article 227 of the Constitution of India, this Court can only review the exercise of jurisdiction/power by the learned Family Court, and there is no illegality or perversity in the same, as learned Family Court has merely passed an interim order solely to facilitate the meeting and provide visitation rights to the petitioner with his daughter. It is further submitted that, the petitioner ought to have filed an appeal assailing the impugned order dated 03.06.2024, if at all, he felt aggrieved by the said order. This Court in the present jurisdiction cannot re-appreciate the evidence as the same is a supervisory jurisdiction. Even if, the present case is assessed on the touchstone of legal principles prior to the passing of the judgment of Full Bench of this Court in **Geetanjali Aggarwal (supra)**, the limitations and fetters with respect to exercise of jurisdiction under Article 227 of the Constitution of India cannot be given a go by, and the power of fact-finding



conferred on learned Family Court cannot be usurped by this Court. Reliance has been placed by learned counsel for the respondent on the following observation of the Hon'ble Supreme Court in **Estralla Rubber v. Dass Estate (P) Ltd.**<sup>7</sup>, which reads as under: -

“6. The scope and ambit of exercise of power and jurisdiction by a High Court under Article 227 of the Constitution of India is examined and explained in a number of decisions of this Court. The exercise of power under this article involves a duty on the High Court to keep inferior courts and tribunals within the bounds of their authority and to see that they do the duty expected or required of them in a legal manner. The High Court is not vested with any unlimited prerogative to correct all kinds of hardship or wrong decisions made within the limits of the jurisdiction of the subordinate courts or tribunals. Exercise of this power and interfering with the orders of the courts or tribunals is restricted to cases of serious dereliction of duty and flagrant violation of fundamental principles of law or justice, where if the High Court does not interfere, a grave injustice remains uncorrected. It is also well settled that the High Court while acting under this article cannot exercise its power as an appellate court or substitute its own judgment in place of that of the subordinate court to correct an error, which is not apparent on the face of the record. The High Court can set aside or ignore the findings of facts of an inferior court or tribunal, if there is no evidence at all to justify or the finding is so perverse, that no reasonable person can possibly come to such a conclusion, which the court or tribunal has come to.”

ii) It is further submitted that the present visitation arrangement by learned Family Court grants the petitioner supervised visitation with the minor child on every 1<sup>st</sup> and 3<sup>rd</sup> Saturday of the month in Children's Room, Saket Court, for two hours and the intent behind same was that the child would become familiar with the petitioner and this exercise would gradually be taken further and the petitioner would in future will be granted unsupervised visitation. It is

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<sup>7</sup> (2001) 8 SCC 97



further submitted that learned Family Court has on its wisdom had provided for such a visitation arrangement so that child and the petitioner may have first-hand experience and develop a relationship of love and affection with each other. It is pointed out that the visitation arrangements scheduled/provided by learned Predecessor Benches of this Court were also on the similar lines. It is further submitted that the petitioner is however outraged and does not even have the patience to wait as to what ramifications would be coming out of the said visitation arrangement, as also to wait for the said order to play out and actually get to the point where the child wants to be with him. The petitioner has by his conduct and angry insistence, in fact, demonstrated unfitness to be with the child at this early age. It is further submitted that the respondent/mother has experienced that the petitioner has severe anger issues and at times, display hostility towards her in the presence of the child, even when she tries to make efforts for the smooth interaction/visitation between the petitioner and the child. It is the case of the respondent that the petitioner never allows efforts for coparenting to succeed, and it has been observed that, sometimes the child has been questioned by the petitioner regarding the personal information and whereabouts of the respondent. It is further submitted that the petitioner has to first demonstrate by his conduct that he, in fact, has love and affection towards the child more than he dislikes the respondent and the child is not being used as a weapon or means to assert power over and against the respondent.

**iii)** It is further submitted that the petitioner has entirely neglected his financial obligations with respect to the child and despite having substantial



income, he has not contributed towards child's expenses. As per respondent, it is not the non-payment or ignorance or part of the petitioner with respect to financial needs of the child, but even not offering any money or financial help for the need of the child shows that he is only interested in getting the unsupervised custody of the child and does not care as to what is in the paramount interest of the child. It is further submitted that that respondent is a wedding planner and lives in Gurugram with her parental family. She works from home and exclusively plans weddings in Delhi and Jaipur and has strong family support as her parents reside with her and the same provides for a suitable environment for the upbringing of a child. On the other hand, the petitioner lives alone and has a business of Airbnb running from his own residential accommodation. His parents who live in Bihar, had visited him twice in past one and half years. Therefore, such residential accommodation is not suitable for the upbringing of the child and it is not the petitioner's rights for visitation, which is of utmost importance at this stage given the age of the child; however, it is the welfare of the child which would be of the paramount interest. Further, the petitioner is unaware of the schedule of the child and his alcohol consumption and chain-smoking would be a major hindrance to be with the child as the same causes a significant safety and health concern. Petitioner could not be just granted unsupervised visitation and handed over sole custody of the child in such a hurry and haste manner given the desperate attempts made by him in the past two years. It is submitted that the marriage between the parties were solemnised in 2020. The child was born on 23 March 2021. The parties got separated in July 2023, and since then, the petitioner has by way of various litigations had made several desperate



attempts to gain the unsupervised custody of the child. It is further pointed out that the petitioner had instituted divorce petition under Section 13(1)(ia) of the HMA, for dissolution of marriage between the parties on the ground of cruelty.

iv) It is further submitted that the respondent is keen to arrive at a structure and gradual visitation arrangement between the child and the petitioner. However, the same should be in the best interest of the child, and the petitioner's insistence on immediate and expensive access without adjustment or accommodation reflects the personality traits which had contributed for the breakdown of the marriage between the parties, has cautioned the respondent that the same might have a harmful impact on child psychological well-being. It has also been argued that in terms of the internal arrangement provided by learned Predecessor Bench with respect to the summer vacation visitation *vide* order dated 30.05. 2025, the respondent had taken the child on all the six days for visitation/interaction with the petitioner. It is further pointed out that the petitioner had find several contempt petitions against the respondent with respect to non-compliance of visitation with the child on account of respondent's conduct, and the same demonstrates the impatience and desperate conduct of the petitioner. In fact, the petitioner since beginning has been trying to weaponize the legal process against the respondent.

v) With respect to the reliance placed by learned counsel for the petitioner on the Child Access and Custody Guidelines along with Parenting Plan, learned counsel for the respondent submitted that the same cannot be adopted



as Division Bench of this High Court in a matter, had constituted committee with respect to the practical adoption and implementation of said guidelines and called for the comments from the said committee. It is further pointed out that in the said guidelines, Chapter 59 provides for the 'Psychiatric and Psychological Evaluation of the Parents and Child' and based on such psychological evaluation, visitation between the parents and child is to be granted. It is further submitted that said guidelines have been sponsored by NGOs which are running an agenda against a class of women who are involved in various criminal as well as civil litigation against their husband and family members. Therefore, no reliance could be placed on such guidelines.

vi) Learned counsel for the respondent, during the course of arguments, along with the latter, has proposed and suggested that, in case, the petitioner amicably agrees, he could be granted supervised visitation with the child at a convenient place situated near the residence of both parties as they reside in close vicinity instead of Children's room in Saket Court. Further, after observing this schedule/arrangement for good span of time, the frequency and propensity of the visitation could be increased in future, depending upon the comfort and relationship between the petitioner and the child. The petitioner is treating the impugned order as final; however, the idea behind the same was only to establish a level of comfort for the child and respondent with the petitioner in order to coparent the child effectively. It is further submitted that long adversarial litigation, as is illustrated from the conduct of the petitioner, will not benefit the child and it would be in the paramount interest of the child



that the initial visits and interaction between the petitioner and the child are monitored and the comfort and behaviour of the child towards the petitioner is observed, and thereafter, steps with respect to further visitation are taken.

vii) Reliance has been placed by learned counsel for the respondent on the following observation of the Hon'ble Supreme Court in **Rosy Jacob v. Jacob A Chakramakkal**<sup>8</sup>, which reads as under: -

“18. The appellant's argument based on estoppel and on the orders made by the court under the Indian Divorce Act with respect to the custody of the children did not appeal to us. All orders relating to the custody of the minor wards from their very nature must be considered to be temporary orders made in the existing circumstances. With the changed conditions and circumstances, including the passage of time, the Court is entitled to vary such orders if such variation is considered to be in the interest of the welfare of the wards. It is unnecessary to refer to some of the decided cases relating to estoppel based on consent decrees, cited at the bar. Orders relating to custody of wards even when based on consent are liable to be varied by the Court, if the welfare of the wards demands variation.”

In view of the aforesaid observation, it has been contended that there is no such thing like final order with respect to visitation/custody of a child, and the same is subject to the change in condition and circumstances, including the passage of time. It is the case of the respondent that, the various attempts made by the petitioner to obtain the unsupervised custody of the child by approaching this Court as well as Hon'ble Supreme Court time and again shows that he has not developed that level of patience and maturity which is required for providing a suitable atmosphere and environment for the upbringing of the child. No opportunity for observing the interaction between

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<sup>8</sup> (1973) 1 SCC 840



the petitioner and the child has been provided in the present case on account of conduct of the petitioner so that gradual progressive steps with respect to further level of coparenting and upbringing of the child could be taken.

**viii)** It is further submitted that the petitioner has been provided with access on parent-teacher association in the school of the minor child and the e-portal of the school also exhibits the status of the petitioner being the father of the child and he is voluntarily not coming forward and has never gone to any parent teacher meeting in the school.

**ix)** In these circumstances, it is prayed that the impugned order 03.06.2024 has been passed by learned Family Court after taking into consideration the tender age of the child and also, with the intent that the relationship between the petitioner and the child become more comfortable and they could develop love and affection towards each other, and the same requires no interference.

### **REJOINDER SUBMISSIONS ON BEHALF OF THE PETITIONER**

**10.** *In rejoinder*, learned counsel for the petitioner has submitted that the present petition has to be adjudicated on the basis of legal principles prevailing prior to the announcement of judgment by Full Bench in **Geetanjali Aggarwal (supra)**, as the Hon'ble Supreme Court has *vide* judgment dated 09.10.2025, observed that the present petition has been filed prior to the announcement of said judgement. It is further submitted that the present petition has to be decided on its own merits, and the impugned order



is in the teeth of the contours provided under Article 227 of the Constitution of India as the same has been passed on the basis of an earlier similar order which was set aside by learned Coordinate Bench of this Court. Reliance has been placed on the judgment of learned Coordinate Benches of this Court in **Dr. Rakesh Kapoor v. Mrs. Sapna Kapoor**<sup>9</sup>, and **Kinri Dhir v. Veer Singh**<sup>10</sup>, in support of this contention.

**11.** It is further submitted that the conduct of the petitioner in approaching this Court and Hon'ble Supreme Court merely shows that he is aggrieved with the separation of child and has been trying to create a positive environment for the upbringing of the child. It is further submitted that nothing has been revealed from the records of the present case with respect to the alleged personality traits and attributes of the petitioner as has been argued on behalf of the respondent. Further, the petitioner had approached this Court and Hon'ble Supreme Court after his visitations/interactions were stopped and an attempt to argue his own personal case could not be held against him. Learned counsel for the petitioner, during the course of hearing, on instructions from the latter, who was present in the Court, had submitted that he is willing to provide and contribute towards the medical as well as the educational expenses of their minor child- 'G'.

**12.** In these circumstances, it is submitted that the impugned order be set aside and the prayers sought by the petitioner be allowed.

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<sup>9</sup> 2011 SCC OnLine Del 2930

<sup>10</sup> 2022 SCC OnLine Del 816,



## **ANALYSIS AND FINDINGS**

13. Heard learned counsels for the parties and perused the records.

14. The prayers sought in the application under Section 26 of the HMA filed by the petitioner on 18.05.2024 in pursuance liberty granted by learned Coordinate Bench of this Court *vide* order dated 16.05.2024 read as under: -

“In view of facts and circumstances stated above, it is humbly prayed that this Hon'ble Court may be pleased to:

a. Pass an order granting unfettered visitation rights in favour of the Petitioner to meet his daughter, Gayatri Bhatnagar Jha for at least three (3) days in a week, including a day in the weekends:

b. Pass an order for Baby Gayatri to spend all such time with the Petitioner and his family in the absence of Respondent's availability due to her work commitments;

c. Pass an order allowing the Petitioner to communicate with his daughter on telephone/ video call at all times;

d. Pass an order allowing the parents of the Petitioner to have unfettered access to their only granddaughter;

e. Pass an order allowing the Petitioner to make all decisions on an equal footing with the Respondent relating to the child's education, including the choice of school, regular contact with the school for updates, involvement in curricular, co-curricular as well as extra-curricular activities;

f Pass an order granting the Petitioner 50% of vacation time with his daughter, during her summer and winter holidays;

g. Pass an order granting visitation rights to the Petitioner thereby allowing him to visit his daughter on all important festivals and occasions;



h. Any other order that the court may pass in light of justice, equity and good conscience.”

15. Section 26 of the HMA reads as under: -

**“26. Custody of children.**—In any proceeding under this Act, the court may, from time to time, pass such interim orders and make such provisions in the decree as it may deem just and proper with respect to the custody, maintenance and education of minor children, consistently with their wishes, wherever possible, and may, after the decree, upon application by petition for the purpose, make from time to time, all such orders and provisions with respect to the custody, maintenance and education of such children as might have been made by such decree or interim orders in case the proceeding for obtaining such decree were still pending, and the court may also from time to time revoke, suspend or vary any such orders and provisions previously made:

[Provided that the application with respect to the maintenance and education of the minor children, pending the proceeding for obtaining such decree, shall, as far as possible, be disposed of within sixty days from the date of service of notice on the respondent.]”

16. Perusal of the aforesaid provision would demonstrate that the powers given to the Family Court are interim in nature. The learned Family Court have been given power to pass orders time to time during the pendency of the proceedings under HMA, and also, power to revoke, suspend very such orders previously made. Thus, by very nature of the aforesaid provision, the order under Section 26 of the HMA is interim in nature.

17. Learned counsel for the respondent had strenuously argued that the scope of the present petition under Article 227 of the Constitution of India



would be limited to the extent for examining whether the learned Family Court while exercising the jurisdiction under Section 26 of the HMA has gone beyond the scope of the said provision or has passed an order which is *per se* illegal or perverse. On the other hand, learned counsel for the petitioner had argued that the scope of the present petition would also include examining the impugned order in the background of the fact that the previous order dated 02.05.2024 was set aside by learned Coordinate Bench of this Court, and subsequently, learned Family Court *vide* impugned order herein, besides giving access to the petitioner with respect to the school, kept the visitation as the same. Thus, it is argued that the impugned order passed was not in consonance with the direction given by learned Coordinate Bench of this Court in **CM(M) 2557/2024** *vide* order dated 16.05.2024.

**18.** At this stage, it is pertinent to note that at the time of passing of the impugned order dated 03.06.2024, child- 'G' was approximately 3 years 2 months old (Date of Birth of Child is 22.03.2021). The prayers sought by the petitioner, as noted hereinbefore, in his application under Section 26 of the HMA was with respect to unfettered visitation rights. The learned Family Court, while passing the impugned order, had limited material on record to determine whether unfettered visitation rights could be granted to the petitioner or not? Child-'G' was admittedly in the custody of the respondent and being a girl child, the learned Family Court while keeping in mind the special needs of such child granted the limited visitation rights to the petitioner as noted in the impugned order. It is further pertinent to note that the impugned order has not been passed by taking note of any hostile conduct



of the petitioner or his personality traits as alleged by the respondent. The said impugned order was passed by the learned Family Court in view of the existing circumstances at that particular point in time.

**19.** During the pendency of the present proceedings, the minor child has now turned 5 years-old. As has been noted hereinbefore, in pursuance of the various order passed by learned Predecessor Bench of this Court, the petitioner has had interaction with the child; though, not in the manner, he wished to have the same. The moot question before this Court is whether, at this stage, the petitioner can be granted reliefs as he has prayed for in his application under Section 26 of the HMA, and in particular, it is the issue of unsupervised visitation at this stage, which needs to be adjudicated.

**20.** This issue of unsupervised visitation was adjudicated upon by learned Predecessor Bench of this Court *vide* order dated 30.05.2025 with respect to summer vacations, after analysing the contentions of the parties, and following directions were passed: -

“52. Nonetheless, for the month of June, the petitioner is entitled to have four more additional visitations, over and above the two existing visitations. Duration of such visitation (six in number) shall be of three hours each and these may take place at any mutually acceptable neutral place, which can be any decent public place, play-area or Mall or Museum or any other place of child-interest. The mother may though be present during such six visitations but would not be within the visible distance.

53. In addition to above and to begin with, the petitioner is also granted two unsupervised visitation of six hours duration each in the month of June, 2025. During such unsupervised visitation, he



would be permitted to pick up his daughter from the residence of his wife at 10:00 am and would drop her back at the residence of his wife at 4:00 pm. Since the residences of the petitioner and respondent are in close proximity, the transportation time is not going to make any substantial difference.”

**21.** During the course of arguments, on a pointed query, the parties jointly submitted that the respondent had brought the child on all the six occasions. However, it is the case of the petitioner that the respondent did not leave the premises so as the petitioner could have the unsupervised visitation. To the contrary, it is the case of the respondent that the child would not leave her out of her sight. It is further the case of the respondent that despite her best efforts that she would not remain present within the visible distance of the child, the same, however, was not possible on account of child-‘G’ insisting on her presence within visible distance. In these circumstances, it is the case of the petitioner that other directions contained in paragraph-53 of the order dated 30.05.2025 could not be complied with. In fact, it was submitted on behalf of the respondent that the aforesaid order was never challenged as she is not averse to unsupervised visitation of the petitioner with their minor girl child.

**22.** The judgment relied upon by learned counsels for the parties are with respect to different facts and circumstances. In the present case, it is noted and which has also been admitted by the respondent that the girl child –‘G’ enjoys spending time with the petitioner and there is no element of hostility towards the petitioner. It is the case of the respondent that the petitioner could not claim alienation from the child while he is himself claiming that there is cordial relationship between the child and him, and further that, the girl child-



G has a bonding with him. On the other hand, the case of the petitioner is that he is alienated on account of limited access with the girl child-‘G’.

**23.** “Limited access” for the petitioner is that he is not being given unsupervised visitation with the girl child-‘G’. Being a father, the petitioner has all the rights for an effective visitation with his child as well as to participate in her social and educational progress. A child requires best of both the parents for his/her nurturing so as to develop an overall personality. Admittedly, both the parents are professionally well qualified individuals having their own respective vocation.

**24.** At this stage, it is apposite to refer to certain observations made by learned Predecessor Bench while disposing of the demand of 50% of parenting time during the on-going summer break at that time raised by the petitioner, *vide* order dated 30.05.2025 which read as under: -

“47. The petitioner herein has a good profile and is in the field of education and he can very well anticipate the needs of his daughter and thus to deny unsupervised visitation, when the child is already 4+, would not be appropriate, particularly, when the visitations, twice a month, are already happening. There seems to exist a connect between petitioner and his daughter, as would be visible from the videos placed on record. It, therefore, cannot be said she does not like company of her father.

48. However, at the same time, everything needs to be steady and gradual. 49. There is no thumb rule that 50% of the vacation any child has to be with one parent and for the rest, it has to be with the other.



50. A *modern-age child* wants quality time for himself, too. Any such child is entitled to pursue his hobbies in his own style and, therefore, he requires independent time - independent of his parents. Every school-going tiny-tot, anxiously and impatiently, awaits for summer break or winter break. They, generally, have their own plans for enjoying such break in the best possible manner but, fact remains that when there is custody battle, at times, it spoils such break and the warring parents do not understand the underlying damage, caused on account of frequent swapping of custody.

51. There cannot be, thus, any straightjacket formula in such type of matters and each case has to be considered keeping in mind its peculiar factual matrix. Thus, the demand for 50% of the parenting-time during the ongoing summer break would be little unwarranted, at this juncture.”

25. The issue which needs to be addressed is whether as to why, the child, who otherwise has a connection with her father-petitioner and enjoys his company, would not be willing to have a visitation in the absence of her mother’s presence in visible sight?

26. It is not in dispute that this Court while exercising jurisdiction regarding custody of children will decide the same keeping in view the welfare of the child which is of paramount consideration. The Hon’ble Supreme Court in **Yashita Sahu v. State of Rajasthan & Ors.**<sup>11</sup>, had observed and held as under: -

***“Welfare of the child – the paramount consideration***

20. It is well settled law by a catena of judgments that while deciding matters of custody of a child, primary and paramount consideration is welfare of the child. If welfare of the child so demands then technical

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<sup>11</sup> (2020) 3 SCC 67



objections cannot come in the way. However, while deciding the welfare of the child, it is not the view of one spouse alone which has to be taken into consideration. The courts should decide the issue of custody only on the basis of what is in the best interest of the child.

**21.** The child is the victim in custody battles. In this fight of egos and increasing acrimonious battles and litigations between two spouses, our experience shows that more often than not, the parents who otherwise love their child, present a picture as if the other spouse is a villain and he or she alone is entitled to the custody of the child. The court must therefore be very wary of what is said by each of the spouses.

**22.** A child, especially a child of tender years requires the love, affection, company, protection of both parents. This is not only the requirement of the child but is his/her basic human right. Just because the parents are at war with each other, does not mean that the child should be denied the care, affection, love or protection of any one of the two parents. A child is not an inanimate object which can be tossed from one parent to the other. Every separation, every reunion may have a traumatic and psychosomatic impact on the child. Therefore, it is to be ensured that the court weighs each and every circumstance very carefully before deciding how and in what manner the custody of the child should be shared between both the parents. Even if the custody is given to one parent, the other parent must have sufficient visitation rights to ensure that the child keeps in touch with the other parent and does not lose social, physical and psychological contact with any one of the two parents. It is only in extreme circumstances that one parent should be denied contact with the child. Reasons must be assigned if one parent is to be denied any visitation rights or contact with the child. Courts dealing with the custody matters must while deciding issues of custody clearly define the nature, manner and specifics of the visitation rights.

**23.** The concept of visitation rights is not fully developed in India. Most courts while granting custody to one spouse do not pass any orders granting visitation rights to the other spouse. As observed earlier, a child has a human right to have the love and affection of both the parents and courts must pass orders ensuring that the child is not totally deprived of the love, affection and company of one of her/his parents.”

**27.** If the child was alienated towards the father on account of tutoring by



the respondent, then the same would ought to have been with respect to the general meetings as well, which is not the case. In fact, this Court has also interacted with the parties and observed that, the girl child- 'G' is, although, comfortable with the petitioner, but was not ready to leave the company of her mother/respondent, despite her offer to leave. Further, as noted hereinbefore, the order dated 30.05.2025 passed by learned Predecessor Bench with respect to unsupervised visitations during summer vacations at that point in time was not challenged by the respondent. This Court, at this stage, cannot possibly give findings as to why child- 'G' does not let mother/respondent out sight during the visitation. In these circumstances, it would be in the best interest of the child that both the parents should make joint efforts and make sure that the child is equally comfortable with the petitioner for the purposes of unsupervised visitations. It is the considered opinion of this Court that the parents and child need professional assistance in achieving this goal.

**28.** Further, in **Amyra Dwivedi (Minor) Through Her Mother v. Abhinav Dwivedi & Anr.**<sup>12</sup>, the Hon'ble Supreme Court has observed and held as under: -

“4. When a court grants visitation rights, these rights should be granted in such a way that the child and the parent who is granted visitation right, can meet in an atmosphere where they can be like parent and child and this atmosphere can definitely not be found in the office of District Legal Services Authority. That atmosphere may be found in the home of the parent or in a park or a restaurant or any other place where the child and the parent are comfortable.”

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<sup>12</sup> (2021) 4 SCC 698



**29.** In the present case, admittedly, the visitations/interactions of the petitioner with child are being held in Children Room, Saket Court Complex, New Delhi, on every 1<sup>st</sup> and 3<sup>rd</sup> Saturday of the month from 11:00 AM to 01:00 PM in terms of order dated 02.05.2024 which was continued *vide* impugned order dated 03.06.2024. During the course of proceedings, parties had informed this Court that they are presently residing in close vicinity to each other in Gurugram, Haryana, and therefore, it would be in the welfare of the child that the petitioner would meet his minor daughter- 'G' in a child friendly environment which could be at a place mutually acceptable and situated near their residences, either in a park, or restaurant, or any other place where the child and the parties are comfortable.

**30.** Insofar as the prayer of the petitioner for education and welfare of his child is concerned, it is pertinent to note that, during the course of proceedings, learned counsel for the respondent had shown this Court that the petitioner has been provided with access on parent-teacher association in the school of the minor child and the e-portal of the school also reflects the status of the petitioner as the father of the child-'G'. Petitioner has also been provided gate pass of the school.

**31.** Further, in respect of unsupervised visitation rights, in the facts and circumstances of the case, this Court deems it appropriate to pass the following directions: -

- i)** The petitioner and respondent along with their minor girl child shall



visit child counsellor/psychologist attached with Delhi High Court Mediation and Conciliation Centre, and the mandate of the said counsellor shall be to facilitate the unsupervised visitation of the petitioner with the child. The parties are also at liberty to decide upon a mutually acceptable child counsellor/psychologist under intimation to learned Family Court. However, till such time they along with their minor girl child shall continue their sessions with the counsellor attached with the aforesaid Centre;

- ii)** The 1<sup>st</sup> meeting/session between the parties and child counsellor/psychologist shall take place at the aforesaid Centre on a mutually convenient date to the parties within ten days from today;
- iii)** After the initial 1<sup>st</sup> meeting, the counsellor shall fix meeting(s) with the parties and child as per requirement;
- iv)** The counsellor shall after interaction with the petitioner, respondent, and the child submit a report within a period of four weeks with respect to such interactions/meetings before learned Family Court, Saket Courts, Delhi;
- v)** On receipt of the report from child counsellor/psychologist, learned Family Court shall determine the further course of action with respect to unsupervised visitation of the petitioner with the child;



- vi)** The impugned order dated 03.06.2024 is accordingly modified. The application dated 18.05.2024 under Section 26 of the HMA filed on behalf of the petitioner is restored;
  - vii)** Learned Family Court shall decide the aforesaid application filed by the petitioner and pass appropriate order(s) in the said application after receiving and upon considering the report from the child counsellor/psychologist;
  - viii)** These meetings/sessions with the child counsellor/psychologists will be over and above the visitation of petitioner with the child in terms of *paragraph 29* of this judgment.
- 32.** The present petition stand disposed of with the aforesaid directions.
- 33.** Pending applications, if any, also stand disposed of accordingly.
- 34.** Needless to state that, this Court has not expressed any opinion on the merits of the application pending before learned Family Court and the aforesaid directions are subject to the final determination of the application filed on behalf of the petitioner.
- 35.** Copy of the judgment be sent to the Secretary, Delhi High Court Mediation and Conciliation Centre, as well as learned Judge-02, Family Courts, South District, Saket Courts, Delhi, for necessary information and



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compliance.

**36.** Judgment be uploaded on the website of this Court, *forthwith*.

**AMIT SHARMA  
(JUDGE)**

**APRIL 02, 2026/nk/kr/bsr/ns**