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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of decision: 27th February, 2025
+ **W.P.(CRL) 2808/2024 & CRL.MA. 39053/2024, 110/2025**
VISHAL VERMAPetitioner

Through: Ms. Gauri Rajput & Mr. Shubhashish
Sharma along with Petitioner in
person.

versus

STATE GOVT. OF NCT OF DELHI & ORS.Respondents

Through: Mr. Sanjay Lao, Standing Counsel
(Crml.) with Ms. Priyam Aggarwal &
Mr. Abhinav Arya, Advs. with SI Jay
Prakash, PS Inder Puri.
Mr. Ripudaman Bhardwaj, CGSC with
Mr. Kushagra Kumar, Mr. Abhinav
Bhardwaj, Mr. Amit Kumar Rana,
Advs. for R-3&4.

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE RAJNEESH KUMAR GUPTA

Prathiba M. Singh, J.(Oral)

1. This hearing has been done through hybrid mode.
2. The matter has been listed upon special mentioning made by the Respondent-wife.
3. The present petition under Article 226 of the Constitution of India had been filed seeking issuance of a writ in the nature of *habeas corpus* for the production of the minor son of the Petitioner-husband. The present petition was disposed of vide judgement dated 11th December, 2024, wherein the Court laid down the interim arrangement with respect to the Petitioner's visitation rights in the following terms:

“21. Accordingly, upon considering all the above-



mentioned facts, mediation report and conduct of the parties the following directions are passed:

Arrangement with respect to Petitioner-Father's visitation

- I. As an interim arrangement, let the child visit the Petitioner-Father twice a month from Friday evening, after school, till Saturday evening at 05:00 pm. The Petitioner-Father is free to pick up the child from the school on Friday after school and drop him back at Respondent No.2-Mother's place of residence on Saturday by 05:00 pm. It is informed that the C.M.(Main) petition is stated to be pending and listed before the ld. Single Judge on 19th December 2024. The ld. Single Judge may consider passing an appropriate arrangement for the winter vacation as also the interim arrangement.
- II. The Respondent No. 2-Mother has also assured the Court that she would not create any obstruction and would guide the child in a manner so that he can peacefully accompany the Petitioner-Father during his visits. The mother and father shall maintain civility between each other and cooperate in ensuring that the arrangement, that has been put in place, is successful and that the child is not traumatized in any manner.
- III. There shall be no photography or videography of the child unnecessarily during his pick or drop inter se the parties.
- IV. Petitioner-Father and Respondent No.2-Mother shall ensure that they do not try to, in any manner, brainwash the child against the other during the period when the child is with either of them, as it has become obvious to the Court during interactions that the child tends to repeat what is told to him.
- V. The Respondent No.2-Mother and the child shall not be allowed to leave the country without



permission of the ld. Single Judge. The child shall continue to study in Mount Carmel School.

VI. The father shall continue to pay the monthly amount as submitted to the Court.

22. The Petitioner-Father has also prayed for access to the academic record, parent teacher meeting and other communication from the school of his son. The said request may be made before the ld. Single Judge and adjudicated in accordance with law.”

4. In the above order, inadvertently the date of order is mentioned as 21st January 2025. It ought to read as order dated 20th December 2024.

5. The above order dated 11th December, 2024 was challenged by the Respondent wife before the Hon’ble Supreme Court in *SLP (Crl.) 18175/2024*. Vide order dated 20th December, 2024, the Supreme Court directed as under:

“1. Heard Ms. Divya Upadhyay, learned counsel appearing for the petitioner (wife) Also heard Ms. Gauri Rajput, learned counsel appearing for the respondent No. 1 (husband).

2 As the 7 year 8 months old son is residing with the mother and the father is provided with visitation rights including two overnight visitations every month, we feel that for the best interest of the child, who must receive love, care and attention from both parents, the arrangement ordered by the High Court on 11.12.2024, needs to be given chance to continue for a while.

3. As the petitioner has suffered a recent bereavement in the family, for the first overnight visitation, the father will pick up his son on 22.12.2024 at 11:00 am. from the agreed point in Connaught Place, as designated by the High Court. The father will handover the custody of the son to the mother at the same time at the same place, on



the next day. This is only for the first day arrangement as the schools are closed. Thereafter, the twice monthly overnight visitations should happen in terms of the High Court's order as per the convenience of both sides.

4. List on 27.01.2025. In the meantime, parents will avoid negative displays before the child and should focus on the well.”

6. The Petitioner then filed an application seeking rectification of the order dated 11th December, 2024 and for modifying the terms requesting overnight stay from Friday evening to Saturday evening and “every weekend” instead of “every fortnight”. The said application was considered by the Court on 24th December, 2024. Bearing in mind the order of the Supreme Court and the fact that there was complete non-compliance by the wife of the directions given by the Supreme Court, this Court then directed vide order dated 24th December 2024, as under:

“8. Various reasons are being given on behalf of the Respondent No.2 /wife for the non-compliance of the directions passed by this Court as well as the Supreme Court. One of the reasons as per the Petitioner/father is that when he had gone to pick up the child, he was informed by the wife that the child had locked himself in the car and she and her driver were forced out of the car by the child. As per ld. Counsel for the Petitioner, such a reason was also given, even in the past, by the Respondent No.2/wife for not adhering to the orders passed by this Court.

9. This Court is clear that there cannot be violation of Court orders indefinitely. In fact, the order of the Supreme Court clearly records that the child deserves love, care and attention from both parents. In this case, we have met both the parties, the child and paternal grandparents as well. Clearly the Court is of



the opinion that prima facie the Respondent No. 2/wife is creating repeated hurdles in the child meeting or having any relationship with the Petitioner/father or his parents.

10. *Earlier vide order dated 5th December, 2024, it was directed the entire family to go for a weekend vacation and enjoy outing with the child, after which the observation of this Court was that the child's outlook towards the Petitioner/father had considerably improved.*

11. *Without further going into the reasons why the child is not being permitted to meet the Petitioner/father and paternal grandparents, this Court is of the opinion that if this situation continues, the child may get completely deprived of the Petitioner/father and his family and they would be completely deprived of the company of the child, which is not healthy for either of them.*

12. *During the course of mediation, the Delhi High Court Mediation and Conciliation Centre had taken the help of Dr. Parnika Sharma, an empanelled Counsellor to counsel the child. It was found that in one of the in-chamber interactions, that the child was quite comfortable with her. She had also submitted a report to this Court.*

13. *Accordingly, it is directed that, since there is an ongoing Christmas break in schools, the Counsellor can be deputed to pick up the child tomorrow, i.e., on 25th December, 2024 from the house of the Respondent No. 2/wife at 3:00 p.m. and drop at the Petitioner/father's place.*

14. *The child shall spend one night at the Petitioner/father's house and the child shall be returned to the wife on 26th December, 2024 at her house at 3:00 p.m. by the support person.*

15. *Similarly, after this visit, the child shall be picked up by the Counsellor from the Respondent No.2/wife's house and be dropped at the*



Petitioner/father's place for spending one night as per the following schedule:

- 27th and 28th December, 2024,
- 3rd and 4th January, 2025 and
- 17th and 18th January, 2025.

16. *The Counsellor, Dr. Parnika Sharma, who has already interacted with the child, is appointed as the support person for picking up and dropping the child. She shall be paid a fee of Rs.10,000/- per visit, which shall be borne by the Petitioner. If on any given date, the specific Counsellor will be unavailable, she may depute any other support person/Counsellor of her choice.*

17. *This interim arrangement shall be subject to any other further orders that may be passed.*

18. *Let the support person/Counsellor submit a report giving a summary of the visits, to this Court.*

19. *The matter is stated to be listed before the Mediation Centre for 8th January, 2025. On the last two occasions, it appears that the parties could not have effective mediation for various reasons, which need not be gone into.*

20. *Both the parties shall now appear on 8th January, 2025 before the Id. Mediator. The Counsellor/support person and the Mediation Centre shall send their reports to this Court by the next date of hearing.*

21. *List on 21st January, 2025 for compliance."*

7. The above order was passed keeping in mind the Christmas break as also the wife's complete non-compliance of the Supreme Court's order and toxicity she was creating with the child. A child Counsellor was appointed to interact with the child as also for picking up the child and dropping at the father's house.

8. Even these directions were not complied with and a further application came to be filed by the Petitioner to hand over the interim custody to the



Petitioner-father and paternal grand-parents. In effect, not a single visitation had happened subsequent to the order dated 20th December, 2024 passed by the Supreme Court as also the order passed by this Court dated 24th December, 2024. The child Counsellor had submitted her report, which showed that enormous time was spent in counselling the child emotionally and behaviourally during the entire winter vacation. There was also tutoring of the child by the Respondent-wife against the Petitioner-husband. The Counsellor's recommendations were as under:

- “i. The child should receive counseling using play therapy to help him process and cope with his emotions.*
- ii. Both parents must consistently model positive perceptions of each other, reducing the child's hostility and fear.*
- iii. It's essential for the parents to avoid involving the child in their disputes and work together to create a stable, supportive environment that ensures the child feels loved and safe by both parties.”*

9. The matter was then referred to Mediation. It was then directed that the child shall be handed over to the Petitioner-father and his family from 16th January, 2025 to 20th January, 2025 and the following directions were issued on 16th January, 2025:

“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.

16. The Court has also enquired about the schooling of the child. The child is studying in Mount Carmel School which is located in Anand Niketan. The father's family stays in Preet Vihar. The father's family is willing to drop and pick up the child from the school.

17. Accordingly, it is directed that the child shall be handed over to the father and his family from today till 20th January 2025. The Dadi/Dada shall be the primary care givers during this period. The family shall ensure that they do not speak anything adverse against the mother. Video recordings and audio recordings shall be avoided.

18. The matter shall be called on 21st January, 2025. The child shall be produced by the Petitioner on the next date before the Court.

19. The father shall be given access in the school of the child in order to enable him to pick up and drop the child. However, the father shall always be accompanied by the daadi of the child.

20. During this period, when the Petitioner's family has custody of the child, on a daily basis in the morning and evening the child shall be made to speak to the mother for at least 15 minutes."

10. The matter was again called on 21st January, 2025, on which date after hearing the parties and as per the wishes expressed by the child, the following interim arrangement was put in place **with the consent of the parties**.

"4. Pursuant to the order dated 16th January, 2025, the child, Master 'K' has spent time with his father and his paternal grand-parents. Today, he has come to the Court with his father and the grand-parents. The



Counsellor - Dr. Parnika Sharma has accompanied him. The mother of the child is also present.

5. The Court has had an in-chamber interaction with the child. From the chamber interaction, it is made out that the child is quite comfortable living with his father and grand-parents as well. The child has in fact expressed affection for all his family members, including his parents, paternal grand-parents and maternal grand-parents. The child has also happily interacted with the Court unlike on previous occasions. The child himself suggests that he will spend Monday to Friday with his mother and on weekends with his father.

6. As per the wishes of the child, the following interim arrangement is directed:

- i. The child shall stay with the mother from Monday to Friday.*
- ii. On Friday afternoon, the father may pick-up the child from the school and drop him back to the mother's house on Sunday by 02:00 PM.*
- iii. During any time of the day, whether the child is staying with the mother or the father, he shall be made to speak to the other parent on a regular basis on video call or audio call, as per his wishes.*

7. This arrangement is also acceptable to both the parents. They also wish to resolve their overall disputes. Accordingly, they are free to place their proposals before the Court on the next date of hearing."

11. The matter was again listed on 21st February, 2025 on which date the Court was informed that the order dated 21st January, 2025 was challenged before the Supreme Court. However, no order of the Supreme Court was placed before us. On the said date, after hearing submissions, the following order was passed.

"4. Ld. Counsel for the Petitioner submits that the order dated 21st January, 2025 has been



challenged by the Respondent/mother before the Supreme Court.

5. In any event, the said order was a consent order which was passed after taking into account the wishes of all the parties including the child with whom the Court had an interaction in the Chamber.

6. The arrangement directed on 21st January 2025 shall continue. However, upon request of the Id. Counsel for the Petitioner, for the Holi festival, let the parents of the child coordinate with each other if the child is to spend some more time with the father and his family.

7. List on 22nd April, 2025 for considering the pending applications.”

12. On 21st February, 2025, when the matter was taken up by this Court, the order dated 28th January, 2025 passed by the Supreme Court was not placed before the Court. The Court was only informed that the order passed on 21st January, 2025 has been challenged before the Supreme Court.

13. Yesterday, the matter was mentioned and the matter has been taken up today. The Court has now been shown the order dated 28th January, 2025 passed by the Supreme Court in ***SLA (Crl.) Nos. 18175/2024*** titled ***Twinkle Vinayak v. Vishal Verma & Ors.*** The order dated 28th January, 2025 passed by the Supreme Court has been placed before the Court today, which reads as under:

“1. Heard, Ms. Mahalakshmi Pavani, learned senior counsel appearing for the Petitioner. The respondent No. 1 is represented by Mr. Sunil Dixit, learned counsel. The petitioner and the respondent No. 1 are also personally present in Court.

2. The petitioner’s counsel raises an issue about the High Court permitting the father’s visitation rights to



four times a month, although, it was permitted only twice every month.

3. Reacting to the above, Mr. Sunil Dixit, learned counsel submits that since there was inappropriate response from the petitioner's side, the High Court has allowed the father to have visitation rights on four times every month.

4. We have considered the above submissions of the learned counsel for the parties. Also perused the order passed by this court on 20.12.2024. In paragraph 3 of the said order, it was clearly indicated that following the first visit of the son to the father, twice monthly overnight visitation should happen, in terms of the High Court's order, as per the convenience of the parents. Therefore, the four times visitation every month appears to be a case of over reach.

5. Therefore, this Court's above order (20.12.2024) will continue to operate as the visitation rights of the father to his son.

6. The matter be listed after three months."

14. In the above sequence of events, clearly, it appears that the Respondent wife is not placing the correct and true facts. In view of the order dated 28th January, 2025 passed by the Supreme Court, it is clarified that the order dated 20th December, 2024 of the Supreme Court shall continue to operate for visitation of the father with the child. Thus, the visitation of the father with the child shall be twice a month.

15. List on the date fixed *i.e.*, 22nd April, 2025.

**PRATHIBA M. SINGH
JUDGE**

**RAJNEESH KUMAR GUPTA
JUDGE**

FEBRUARY 27, 2025/Rahul/dk/ks