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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CRL.M.C. 1484/2020, CRL.M.A. 6863/2020, CRL.M.A. 7484/2020,
CRL.M.A. 7485/2020, CRL.M.A. 7486/2020&CRL.M.A. 7487/2020

GAUTAM KAPOOR

.....Petitioner

Through: Petitioner in person with Mr.Jatin Sehgal,
Mr. Adhirath Singh & Ms. Raymon
Singh, Advocates.

versus

AAINA KAPOOR

.....Respondent

Through: Respondent in person with Mr. Sunil
Mittal, Sr. Advocate, Mr. Ankit Mutreja
&Ms. Seema Seth, Advocates.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

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11.06.2020

CRL.M.A. 7485/2020&CRL.M.A. 7487/2020 (Exemptions)

Exemptions allowed subject to all just exceptions.

The applications stand disposed of.

CRL.M.C. 1484/2020

During the course of the proceedings dated 28.05.2020, it has already been submitted on behalf of the petitioner that the petitioner does not press the prayer seeking the setting aside of the order dated 06.03.2020 of the learned Sessions Court in CA No.13/2019 remanding back the matter to the learned Trial Court for fresh consideration as soon as possible.



In view of the prayer made qua the visitation rights for the minor child on the basis of the complaint along with the documents filed with the complaint, the matter was however, confined to limited prayer made by the petitioner to the extent of online visitation alone as long as the matter is decided by the learned Trial Court.

Objections were raised on behalf of the respondent to even online visitation submitting to the effect that there are video clippings that needed to be placed on record to show the conduct of the petitioner which would disentitle the petitioner to even have such online visitation. It has also been submitted on behalf of the respondent that the said video clip has been annexed with the documents that had been sought to be placed on record by the respondent, the same however, have not been received.

It has however been submitted on behalf of the respondent in reply to a specific Court query that the said video clippings relate to the sexual relationship between the petitioner and his male friend and in reply to a further query by the Court as to how the respondent has access to the same, it is informed that the respondent barged into the room wherein she found the petitioner and his associate indulging in the said act.

On behalf of the petitioner, reliance is sought to be placed on various photographs as well as on the conversation of the date 10.05.2018 between the petitioner and the minor child, which reads to the effect:-

“ Dated 10.05.2018

Shaurya: hello

Gautam : hello

Shaurya : papa mai sabke saath **

Shaurya : hello

Gautam : haa beta



Shaurya : haa papa

Gautam: ram ram beta

Shaurya : ram ram

Gautam : kya kah raha thha sabke saath

Shaurya: o mai bs business khel raha tha

Gautam: achha to papa se baat nahi karni thi aapko, aap to kah rahe the 4 o clock phone kar lena maine kiya thha aapne uthhaya hi nahi

Shaurya: aap ne five o clock kiya tha.

Gautam: to chalo five o clock bhi kiya tha to aapne uthaya hi nahi

Shaurya: meri bhi aaa padhaai kar raha tha na mai mam aa gai thi meri five to six

Gautam: kitne se kitne baje tak padhta hai tu mam se

Shaurya: five se leke six tak

Gautam: ok ok aur bata beta padhai kaisi chal rahi hai mere bete ki

Shaurya: Sahi chal rahi

Gautam: puchi kar do papa ko

Shaurya : mauh

Gautam : i love beta

oneperson: i love u too

Gautam: aour miis kar rahe papa ko

Shaurya : kya

Gautam: miss karta h papa ko.

Shaurya: thoda thoda

*Gautam : thoda thoda jyda jyada kab karega h aapke ** school holyday*



Shaurya: *aapko aadhe ghante me phone karu**

Gautam : promise karoge na.

Shaurya: haa promise

Gautam : promise

**oneperson: abhi pta nhi game kab khatam hoyegi a lag sakte hai
45 minutes bhi**

**Gautam: to papa wala promise gentleman promise na phone
jarur karna papa wait kar rahe hai aapke phone ka**

Oneperson: thik hai

Gautam: ok bate dena hame jite ya nahi jite

Shaurya: thhik hai

Gautam: thhik hai ok beta.”,

to submit that even after the complaint had been filed under the Protection of Women from Domestic Violence Act, 2005 by the respondent, the conversation between the petitioner and the minor child indicate that the relations between the two were good.

Reliance is also sought to be placed on behalf of the petitioner on the various photographs that have been placed on the record to indicate the close relationship between the minor child and the petitioner i.e. the father of the minor child.

In terms of proceedings dated 28.05.2020, both the petitioner and the minor child were available for the online hearing of the present matter and the minor child was heard by the Court separately and the conversation between the minor child and the Court is placed on the record. It was also considered essential that the petitioner is given an opportunity to talk to the minor child which opportunity has been given to the petitioner and he tried to speak to the minor child, to which the minor



child did not respond by even a single word having been uttered by the minor child and after the petitioner had left the screen, the minor child responding to the query of the Court informed that he did not want to talk to the petitioner.

Placed on record alongwith application i.e. CRL.M.A. 7484/2020 filed on behalf of the petitioner seeking to place on record some additional documents in terms of order dated 28.05.2020 are various documents to contend that there is no relationship between the petitioner and Mr.Hiten Bhatia submitting *inter alia* to the effect that the petitioner and Mr.Hiten Bhatia are friends even of the respondent since the marriage of the petitioner and the respondent.

Be that as it may, the Court is not concerned presently with the said relationship between the petitioner and the stated friend, but it cannot be overlooked that placed at Annexure-2 at pages 26, 27 & 28 of the documents that have been placed on record by the petitioner, the same have been unfortunately placed on record by the petitioner in the manner that they have, the same are directed to be placed in a sealed cover by the Court Master of this Court as soon as possible before the matter is sent to the Registry.

Learned counsel for the petitioner apologizes to the Court and to the respondent for having placed the said documents on the record.

Taking the factum into account that documents such as Annexure-2 to be placed on the record of the Court itself; and the submission that has been made on behalf of the respondent of a stated video clipping between the petitioner and his associate, an isolated online conversation between the petitioner and the minor child would not be safe.

However, through the conversation that the petitioner had with the minor child on screen, the Court considers it appropriate to permit the



petitioner to have the online conversation with the minor child in the presence of the Duty Magistrate alone on the 1st and 3rd Saturday of every month at 3.00 pm for a period of 30 minutes only till the adjudication of the proceedings by the learned Trial Court in terms of the directions dated 06.03.2020 of the learned ASJ-02-cum-Special Judge, (NDPS), North-West, Rohini, Delhi in CRL.A. No.13/2019.

It is further directed that the said video clip between the petitioner and his associate, if received in the Registry, be put in a password protected file and be not opened without the orders of the Court.

The petition is disposed of accordingly.

ANU MALHOTRA, J

JUNE 11, 2020
'neha chopra'