

A RUCHIKA ABBI & ANR.

v.

STATE OF NATIONAL CAPITAL TERRITORY OF DELHI &
ANR.

B Criminal Appeal No.1683 of 2015

DECEMBER 09, 2015

**[J. CHELAMESWAR AND ABHAY MANOHAR
SAPRE, JJ.]**

C *Constitution of India, 1950 – Art.226 – Habeas corpus
petition – By wife – Against her husband – Seeking production
and return of her minor daughter – High Court disposed of
the petition, directing the Family Court to dispose of the
pending custody case – On appeal, Family Court directed to
dispose of the pending custody case keeping in view the
D paramount interest and welfare of the child – During
pendency of the custody case, temporary custody granted
to husband/father with direction to father to drop the child for
one day in a week to the mother/wife – Parents advised not
E to take advantage of the temporary custody for tutoring the
child and create hatred against others – Parents also advised
to come to mutual terms in the interest of the child – Family
Court directed to hold regular sittings for reconciliation during
pendency of the custody case – Family Law – Child Welfare.*

F CRIMINAL APPELLATE JURISDICTION: Criminal
Appeal No. 1683 of 2015

From Judgment and Order dated 07.11.2014 of High Court
of Delhi at New Delhi in Writ Petition (Crl.) No. 1735 of 2014.

WITH

G Conmt. Pet. (C) No. 382 of 2015 in SLP (Crl.) No. 2372/2015
Pritpal Nijjar, Aditya Singla, Ambika Nijjar, Amit Kumar,
Ritika Singh, A. Venayagam Balan, for the Appellants.

Jagjit Singh, Bhagat Singh, Dr. Kailash Chand, Dr.
Abhishek Atrey, P. K. Dey, D. S. Mahra, for the Respondents.

H The Order of the Court was delivered by

ABHAY MANOHAR SAPRE, J. 1. Leave granted. A

2. This appeal is filed against the final judgment and order dated 07.11.2014 passed by the High Court of Delhi at New Delhi in Writ Petition (Criminal) No. 1735 of 2014 whereby the High Court disposed of the Habeas Corpus writ petition filed by the appellant herein for the production and return of the minor daughter by issuing directions. B

3. It is not necessary to set out the facts of the case in detail except to state that the dispute which revolves around between the parties (wife-appellant herein and husband-respondent no. 2 herein) is essentially in relation to the custody of their minor daughter-Roshni. C

4. So far as this appeal is concerned, as mentioned above, it arises out of final judgment and order dated 07.11.2014 passed by the High Court of Delhi at New Delhi in a habeas corpus petition bearing W.P.(Crl.) No. 1735 of 2014 filed by the wife against her husband seeking production and return of her minor daughter and praying for some consequential reliefs therein. The High Court, by impugned judgment, disposed of the writ petition *inter alia* directing the Family Court to dispose of the main custody case. D E

5. This Court, during the pendency of the proceedings, had passed some interim orders regarding temporary custody of the child.

6. Heard Mrs. Nitya Ramakrishnan, learned counsel for the appellant, Mr. Jagjit Singh, learned counsel for respondent No.1 and Mr. P.K. Dey, learned counsel for respondent No.2. F

7. Having heard the learned counsel for the parties and having interacting with the child, we feel that it would be just and proper to direct the Family Court, which has seized of the main custody case (Guardianship Case No. 115/2014) to dispose of the pending main case, i.e., Guardianship Case No. 115/2014, on merits preferably within six months as an outer limit strictly in accordance with law keeping in view the paramount interest and welfare of the child and all relevant H

A factors necessary for deciding the custody of minor child uninfluenced by any of our observations.

8. During the pendency of the main custody case, the temporary custody of the child-Roshni will be with the respondent no. 2 - i.e. husband/father. The respondent no. 2 will drop the child on every Saturday by 6.00 pm. at the petitioner's residence and collect the child by 6.00 pm. on the next day (Sunday).

9. We hope, trust and expect from the appellant and respondent no. 2 to cooperate with each other for the sake of their minor child's welfare and taking advantage of temporary custody of the child not to influence her innocent mind by tutoring her and create hatred against others for their personal interest-a fact, which we unfortunately noticed while interacting with the child on two occasions. Indeed, we feel that such attempt on their part and especially, respondent no. 2 may do more harm to the child in long run.

10. In our view, both parties being young and highly educated should realize such things for the welfare of their own child and make sincere efforts to come to mutual terms so that every one is able to live happily and enjoy family life. Such steps, if taken, will always be in the interest of everyone including the child who needs protection, guidance, care, love and affection of both mother and father, who were responsible to bring her in this world.

11. We, therefore, direct the Family Court to hold regular sittings for reconciliation during the pendency of the custody case and if considers necessary for the welfare and interest of the child pass any interim orders till final disposal of the custody case.

12. With these directions, the appeal stands disposed of finally.

13. In the light of the order passed hereinabove in the appeal, no orders are required in the contempt petition.

H Kalpana K. Tripathy

Appeal disposed of.