



CNR: KAHC010315702026

NC: 2026:KHC:36572
WP No. 15559 of 2026
C/W WP No. 14538 of 2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 16TH DAY OF JULY, 2026

BEFORE

THE HON'BLE MRS. JUSTICE P SREE SUDHA

WRIT PETITION NO. 15559 OF 2026 (GM-FC)

C/W

WRIT PETITION NO. 14538 OF 2026 (GM-FC)

IN WP No. 15559/2026:

BETWEEN:

SMT SHREYA CHOUDHARY
W/O MR. RAHUL A
AGED ABOUT 37 YEARS,
NO 45, KEB COLONY, 5TH MAIN,
3RD CROSS, SANJAYNAGAR,
BENGALURU-560 094.

...PETITIONER

(BY SRI. SANJAY NAIR., ADVOCATE)

AND:

SRI RAHUL A
S/O MR.SURESH AGARWAL
AGED ABOUT 38 YEARS
R/AT NO. N15, DIAMOND DISTRICT,
DOMMALUR,
BENGALURU-56008

...RESPONDENT

(BY SRI. SHIRISH KRISHNA., ADVOCATE)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226
AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO-
QUASH THE IMPUGNED COMMON ORDER DATED 15/4/2026
(ANNEXURE-C) PASSED IN I.A.NO. 9 IN G AND WC NO.

Digitally signed
by
PADMASHREE
SHEKHAR
DESAI

Location: High
Court of
Karnataka



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472/2024 BY THE V ADDITIONAL LD FAMILY JUDGE, BENGALURU, INSOFAR AS IT DIRECTS OVERNIGHT CUSTODY OF THE MINOR CHILD TO THE RESPONDENT, AND CONSEQUENTLY DISMISS I.A. NO. 9 DATED 22/7/2025 (ANNEXURE-A) FILED BY THE RESPONDENT HEREIN AND GRANT AN INTERIM ORDER TO PENDING DISPOSAL OF THE ABOVE APPEAL TO STAY THE OPERATION AND EXECUTION OF THE IMPUGNED COMMON ORDER DATED 15/4/2026 PASSED IN I.A.NO. 9 IN G AND WC NO. 472/2024 BY THE LD. FAMILY JUDGE, BENGALURU, INSOFAR AS IT DIRECTS OVERNIGHT CUSTODY OF THE MINOR CHILD, MASTER RUDRA A., FROM SATURDAY 10.00 A.M. TO SUNDAY 2.00 P.M. (ANNEXURE-C)

IN WP NO. 14538/2026:

BETWEEN:

SMT SHREYA
W/O MR. RAHUL A
AGED ABOUT 37 YEARS,
NO 82, FIRST FLOOR, 5TH MAIN
2ND CROSS, KEB LAYOUT,
SANJAYNAGAR,
BENGALURU-560 094.

...PETITIONER

(BY SRI. SANJAY NAIR., ADVOCATE)

AND:

SRI RAHUL A
S/O MR.SURESH AGARWAL
AGED ABOUT 37 YEARS
R/AT NO. 15, DIAMOND DISTRICT,
DOMMALUR,
BENGALURU-56008.

...RESPONDENT

(BY SRI. SHIRISH KRISHNA., ADVOCATE)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226
AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO-



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QUASHING THE IMPUGNED COMMON ORDER DATED 15/4/2026 (ANNEXURE-C) PASSED IN I.A.NO. 16 IN G AND WC NO 472/2024 BY THE V ADDITIONAL PRINCIPAL FAMILY JUDGE, BENGALURU, INsofar AS IT GRANTS INTERIM CUSTODY FROM 18.04 2026 TO 02.05.2026, AND 50 PERCENT CUSTODY OF THE SUMMER VACATION IN 2026 AND SUBSEQUENT SUMMER VACATIONS TO THE RESPONDENT, AND CONSEQUENTLY DISMISS 1.A.NO. 16 DATED 19/2/2026 (ANNEXURE-A) FILED BY THE RESPONDENT HEREIN AND GRANT AN INTERIM ORDER TO STAY THE OPERATION AND EXECUTION OF THE IMPUGNED COMMON ORDER DATED 15/4/2026 PASSED IN I.A.NO. 16 IN G AND WC NO. 472/2024 BY THE V ADDITIONAL PRINCIPAL FAMILY JUDGE, BENGALURU, INsofar AS IT GRANTS INTERIM CUSTODY OF THE MINOR CHILD, MASTER RUDRA A., FROM 18.04.2026 TO 02.05.2026, AND 50 PERCENT CUSTODY OF THE SUMMER VACATION IN 2026 AND SUBSEQUENT SUMMER VACATIONS TO THE RESPONDENT, FROM SATURDAY 10-00 A.M. TO SUNDAY 2-00 P.M. (ANNEXURE-C).

THESE PETITIONS HAVING BEEN HEARD AND RESERVED ON 06.07.2026 COMING ON FOR PRONOUNCEMENT OF ORDER THIS DAY, **P SREE SUDHA J.**, MADE THE FOLLOWING:

CORAM: HON'BLE MRS. JUSTICE P SREE SUDHA

CAV ORDER

Common order dated 15.04.2026 is passed on I.A. Nos.9, 11, 13 and 16 in G & WC No.472 of 2024 by V Additional Principal Judge, Family Court, Bengaluru.



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2. W.P. No.15559 of 2026 is filed against the order passed on I.A. No.9 and W.P. No.14538 of 2026 is filed against the order passed on I.A. No.16.

3. I.A. No.9 was filed by the respondent-husband for overnight custody of the minor child during the weekends. I.A. No.11 was filed by the petitioner-wife for modification of the visitation order dated 03.05.2025 to once in a month and to suspend the audio and video calling facility. I.A. No.13 is filed by the respondent-husband to direct petitioner to provide him interim custody of the son for 15 days in intervals for the next 2 months. The respondent-husband also filed I.A. No.16 to direct the petitioner-wife to permit shared custody and access of the minor son during summer vacation 2025-26 and during every subsequent summer vacation till disposal of the petition. The Family Court considered the arguments of both sides, discussed at length and dismissed I.A. Nos.11 and 13 and allowed I.A. Nos.9 and 16. As such, the present writ petitions are filed by the petitioner-wife, who is the mother of the minor child, against the order of the Family Court passed on I.A. Nos.9 and 16 respectively



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4. The petitioner-wife has stated that her marriage with respondent-husband was performed on 19.11.2019 and the male child was born on 01.06.2021. Her husband filed G & WC No.472 of 2024 for custody of the child and to appoint him as a guardian. But the child was with her from 25.08.2024. Respondent-husband filed an affidavit of the list of assets and liabilities on 25.04.2016. The Family Court in an interim order dated 03.05.2025 passed on I.A. Nos. 7 and 8 granted respondent-husband visitation rights to meet the minor son on every Saturday and Sunday between 11 a.m. and 02 p.m. and also brief daily audio video interaction. Even afterwards, the respondent-husband is filing successive interlocutory applications for enlargement of the overnight custody in I.A. No.9.

5. It is further stated by the petitioner-wife that minor child is aged of 4 years 10 months and she is taking care of him in all aspects. As per the Order dated 03.05.2025, respondent-husband is availing the visitation rights and also meeting the child once or twice a week and also interacting with him daily



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for 5 to 10 minutes. Therefore, overnight stay and separation from the mother would cause her anxiety and disturbance to the minor child. It is stated that family court arrived at a conclusion stating that "welfare and best interest" of the child without assigning any reasons. There is no discussion as to why overnight custody is necessary and beneficial. It is further stated by the petitioner-wife that respondent-husband has not paid any maintenance till today and Criminal Miscellaneous No.580 of 2025 is filed by her in this regard; he refused to contribute school fee and educational expenses; not co-operated in educational decisions; he is negligent towards child's day to day needs and responsibilities but seeks for enlargement of the custody. Overnight custody of the minor child exposes the child to unavoidable emotional and psychological strain. It is stated that the child is with petitioner-wife from 25.08.2024 and fully accustomed to her care and supervision and therefore, it causes confusion and insecurity to the child and will have adverse impact on the welfare. There is no finding by the Family Court that existing arrangement was inadequate and insufficient and it was simply stated that the



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enlargement of the interim custody is on the ground of meaningful interaction, which is contrary to the law. It is further stated that parental convenience cannot override child's welfare.

6. The petitioner wife in the objection statement before the Family Court stated that the minor child has a structured routine including schooling and activities; weekends are essential for studies and development and the minor child returns disturbed after visitation; Overnight custody affects the sleep quality, attention span, emotional regulation, etc. It is stated by the petitioner-wife that both of them gave complaints on 14.03.2026 and 16.03.2026 regarding the assault during child's handover. But the Family Court failed to assess the implications for safety of the child. The Family Court has not imposed any conditions or safeguards, nor does it assess minor child's adaptability to overnight separation. An abrupt transition can cause anxiety and behavioural disturbances in the child, and it is not in consonance with child-centric approach laid down in 1890 Act. It is also stated that respondent-husband obtained orders in I.A. No. 9 on 03.05.2025, and immediately,



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sought for enlargement of custody, which is detrimental to the emotional and psychological welfare. Thus, it is requested this Court for quashing of the order dated 15.04.2026 passed on I.A. Nos.9 and 16.

7. Respondent-husband before the Family Court stated that he was residing at a distance of 27 kilometres and in view of traffic conditions prevailing in Bangalore, it was taking 3 hours for a round trip. When he went to take the child on Saturday on 05.07.2025, he was subjected to physical assault by his father-in-law and even his wife used aggressive language and threatened him with dire consequences. As such, he gave complaint in Crime No.115 of 125. The child was less interactive and less communicative on phone. It is further stated that mother of respondent-husband is also residing permanently with him in Bangalore and she had close affectionate bond with his son. It is stated by the respondent-husband that his minor child is diagnosed with autism spectrum disorder at the age of 2 years and he was advised for speech and language therapies and they were recommended to take their son for structural therapies approximately 4 times per



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week with each therapeutic session lasting 45 minutes. The sessions were started in June 2023 and continued till November 2023. On 23.08.2024, he and his wife separated and thereafter, his son's health is deteriorated remarkably and significantly. His petitioner-wife failed to take care of the minor son and neglected to ensure regular therapy. It is further stated that during the video call dated 22.10.2025, his wife abused him over phone call in front of the child and cut the phone call.

8. Heard the learned counsel appearing for both sides.

9. The contention of the petitioner-wife is that the child is attending the school regularly and socially adjusted and performing well. Child Progress Report shows that consistently he is outstanding/very good performance in multiple developmental activities including language development, writing, arranging skills, numerology and logic learning skills. But the respondent-husband has a fixed perception that minor has serious conditions of autism and attempts to label him, though the child is functioning normally now. As per the



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language assessment dated 06.01.2025, the child does not have autism. It is stated that the motive of respondent-husband is not welfare but to control and harassment. If the respondent-husband genuinely seeks welfare, he can accompany the petitioner-wife for consultations during mutually agreed time. The age of the child is presently 4 years 10 months. The Family Court has rightly considered all the aspects submitted by both parties and granted interim custody of the minor son to the respondent-husband on every Saturday from 10 a.m. till 02 p.m. on Sunday till the disposal of the petition or until further orders.

10. The respondent-husband stated that his mother is also residing with him and she can take care of the child when overnight custody is granted to him. But the age of the child is below 5 years and he was staying with his mother from past 2 years. The respondent-husband is not paying any maintenance or educational expenses of the minor child, but only sought for enlargement of the custody immediately after granting of visitation rights. twice in a week. In IA 7 and 8, the visitation rights were granted to the respondent-husband to meet the



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minor son every Saturday and Sunday between 11 a.m. and 02 p.m. by an order dated 03.05.2025 and it is modified in IA 9 by order dated 15.04.2026.

11. Minor child requires the care and love of both the parents. But in view of litigation between both the parties and also in view of pendency of the criminal cases against both of them and considering the age of the minor child and the fact that so far the respondent-husband is not paying the maintenance to the minor child and not contributing to the educational expenses, this Court also finds that the order of the Family Court on I.A. Nos.9 and 16 in granting overnight custody and also the custody during vacations, is not proper.

12. Therefore, this Court finds that it is just and reasonable to modify the impugned order, and it can be modified as follows:

- (i) Visitation rights of the minor child is granted on every 2nd Saturday from 10 a.m. to 05.00 p.m. once in a month.



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- (ii) The respondent-father is at liberty to interact with the child on 1st, 3rd and 4th Saturdays through audio or video calls for 15 minutes between 7.00 p.m. and 7.30 p.m.
- (iii) With the above modification, writ petition No.15559 of 2026 is disposed of.
- (iv) In view of the above observations, WP. No.14538 of 2026 filed against the order of family Court on I.A.No.16 is allowed and the said order is set aside.

Sd/-
(P SREE SUDHA)
JUDGE

CS
CT:NR
List No.: 3 Sl No.: 6