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* IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 19.08.2025

+ MAT.APP.(F.C.) 54/2021

GIRISH KUMAR GANGADHARANAppellant
Through: Mr. Sandeep Grover, Mr.
Tarang Agarwal and Ms.
Ankita Arora, Advocates
versus

PRANAMIKA NAIRRespondent
Through: None.

CORAM:
HON'BLE MR. JUSTICE ANIL KSHETARPAL
HON'BLE MR. JUSTICE HARISH VAIDYANATHAN
SHANKAR

J U D G E M E N T (O R A L)

HARISH VAIDYANATHAN SHANKAR, J.

1. The present appeal has been filed under Section 19 of the Family Courts Act, 1984, assailing the **Judgment dated 23.02.2021¹** passed by the learned **Principal Judge, South District, Family Courts, Saket, Delhi²**, in G. No. 1/2013, titled “*Girish Kumar Gangadharan v. Parnamika Nair*”. By the said judgment, the Appellant’s petition under Sections 7 and 12 of the Guardians and Wards Act, 1890, seeking guardianship of his then minor daughter, Vaidehi, was dismissed.

2. Aggrieved by the dismissal of his guardianship petition, the Appellant has sought to set aside the Impugned Judgment dated

¹Impugned Judgement

² Family Court



23.02.2021. In addition, he has prayed for a direction to call for the original records of G. No. 1/2013 and requested expungement/deletion of the following adverse observations recorded in paragraph 21 of the Impugned Judgment:

“21. [...] Pervert mindset of the Petitioner stands established.”

3. Shorn of unnecessary details, at this stage, the present appeal raises the following limited issues:

(a) Whether a custody petition concerning a minor daughter remains maintainable once the daughter attains majority during the pendency of proceedings.

(b) Whether the observations made by the learned Family Court, observing the Appellant as having a “*pervert mindset*”, are unwarranted and liable to be expunged.

4. The record of the appeal further reveals that the Respondent had not been appearing consistently, which led this Court to pass an order dated 24.08.2022, declaring that the Respondent would be proceeded against *ex parte*. Despite this, the Court continued to issue notices to the Respondent; however, she remained absent throughout.

5. At the outset, when the appeal was taken up for final hearing, this Court posed a query to the learned counsel for the Appellant as to what, if anything, survived for consideration, given that the Impugned Judgment arose from a guardianship petition wherein the reliefs sought were as follows:

“a). Declare the Petitioner to be the guardian for the minor child Vaidehi Gangadharan, d/o Girish Kumar Gangadharan aged 5 years and 9 months.

b). Restrain the Respondent from interfering with the Petitioner’s custody of the minor child in any manner or form;



c). Pass any other or further orders as this Hon'ble Court may deem fit in the facts and circumstances of the case”.

6. The said query was necessitated in light of the fact that, at the time of institution of the guardianship petition, the minor child was aged about five years and nine months. It is an admitted position that the child, Vaidehi, was born on 20.03.2007 and, therefore, has since attained majority. Learned counsel for the Appellant fairly conceded that the relief sought in relation to custody of the minor child no longer survives for consideration in the present appeal.

7. However, learned counsel for the Appellant pressed that prayer (B) in the appeal, seeking expungement of adverse remarks, would still require consideration, as such remarks are likely to affect other proceedings presently pending between the parties, apart from impacting the reputation of the Appellant.

8. It is urged that, in particular, the observations made by the learned Family Court in the Impugned Judgment, wherein it was held that the Appellant was of a “*pervert mindset*” and that “*the same stood established*”, are wholly unwarranted and prejudicial. In this regard, learned Counsel for the Appellant invited attention to paragraph 21 of the Impugned Judgment, which reads as follows:

“21. The respondent has placed on record a Compact Disk along with an affidavit U/S 65-B of the Indian Evidence Act to show the pervert mindset of the petitioner/father. It is the case of the respondent that she had several times caught the petitioner taking and saving the explicit videos of the maids in his laptop who had worked in the past in their home. The respondent has proved the said fact by proving the compact disk- Ex. PW 1/6 in this respect. Though, in the rejoinder, the petitioner has claimed that the allegation in this respect is derogatory in nature and he reserved his right to file appropriate proceedings before appropriate Court of Law against the respondent. However, no such petition/complaint was ever filed by the petitioner against the respondent for defaming him. Thus, the pervert mindset of the petitioner stands established.



He lives alone and there is no female member in his house. The respondent has been subjected to extensive cross examination. She has denied all the suggestions put to her during her cross examination. The petitioner has failed to bring out any material thing to show that the respondent mother should not have the custody of the minor child. The respondent for the last 7 years has not only been managing her own expenses in a rented accommodation but is also taking best care of the minor child.”

9. Learned Counsel for the Appellant would contend that the aforesaid finding rendered by the learned Family Court is wholly unwarranted and, in fact, baseless, inasmuch as the same is not supported by any evidence on record.

10. It is submitted that the **Compact Disc**³ relied upon by the learned Family Court for arriving at the finding impugned in Prayer (B) was sought to be introduced by the Respondent only by way of an application dated 21.01.2019. Learned counsel would argue that the said application was filed at a highly belated stage and, therefore, could not have been taken into consideration. He would further refer to the certificate under Section 65B of the **Indian Evidence Act, 1872**⁴, placed in support of the said CD and the relevant para of which states as follows:

“That the attached bank Statement of the respondent EX.RW-1/1, CD EX.RW-1/6 and attached copies of Emails EX.RW-1/7 (colly) submitted as evidence has been obtained by me from my computer as far as EX.RW-1/1 and EX.RW-1/7 (colly) are concerned and EX.RW-1/6 was obtained from the computer of the petitioner, when it was in my possession, and I had authorized access to the petitioner’s said computer and the same are true and correct and there is no tampering or manipulation of any kind and the devices were properly running in ordinary course and at no part of the time when the abovesaid Exhibits were printed out it mal-functioned.”

11. Learned counsel submits that the said certificate is vague, bereft

³ CD

⁴ Evidence Act



of material particulars such as the make or serial number of the computer, the specific dates on which the data was obtained, or other essential details. It is, therefore, non-compliant with the requirements of Section 65B of the Evidence Act and appears to be a manufactured and unreliable document.

12. He would further place reliance on the cross-examination of the Respondent dated 10.04.2019, wherein she admitted that the CD in question had been created by her in late 2011. Learned counsel submits that there is no explanation as to why such an aspect of significance, especially one with a direct bearing on custody proceedings relating to a girl child, was neither pleaded nor placed on record until January 2019, when an application was belatedly moved for bringing the CD on record.

13. Reference is also made to the proceedings dated 25.03.2019, during which the Appellant specifically objected to the CD on the ground of fabrication and unexplained delay in its production. The learned Family Court noted that such objections would be considered at the time of final adjudication. However, in paragraph 21 of the Impugned Judgment, without advertng to or dealing with these objections, the Court proceeded to return a finding stating the Appellant as having a “*pervert mindset*”.

ANALYSIS:

14. We have carefully perused the records of the Appeal and heard learned counsel for the Appellant at length.

15. Insofar as the issue of custody is concerned, it is undisputed that the child, Vaidehi, was born on 20.03.2007 and has, during the pendency of these proceedings, attained the age of majority.



Accordingly, the relief sought by the Appellant in relation to her custody has been rendered infructuous. This position is, in fairness, also conceded by learned counsel for the Appellant.

16. In a similar context, the Madhya Pradesh High Court in **Dr. Asha Sharma (Singh) v. Dr. Avdhesh Kumar Sharma**⁵ made pertinent observations, with which we find ourselves in respectful concurrence. The relevant portion of the said judgment reads as follows:

“(2) Facts giving rise to present appeal, in short, are the appellant-wife filed an application u/s 25 of Guardian and Wards Act, 1890 for the custody of minor children, namely, daughter Aditi Sharma and son Akshat Sharma. But during the trial, daughter-Aditi Sharma attained majority, then prayer for custody of daughter has become infructuous. Now, only dispute is in respect of son-Akshat Sharma.”

(Emphasis supplied)

17. We are in respectful agreement with the aforesaid reasoning, and applying the same to the present case, hold that the custody-related relief in respect of the Appellant’s daughter, having now attained majority, does not survive.

18. The second issue, however, concerning the adverse observation made by the learned Family Court against the Appellant, requires consideration. In our view, the finding that the Appellant possessed a “*perverse mindset*” is wholly unsustainable for the reasons set out hereinafter:

- (i). During her cross-examination dated 10.04.2019, the Respondent categorically admitted that the CD in question had been created by her in late 2011.

⁵ MISCELLANEOUS APPEAL NO. 1757/2024.



- (ii). The guardianship petition giving rise to these proceedings was instituted on 08.01.2013. Despite this, and notwithstanding the exchange of pleadings, multiple applications, and the Respondent's reply filed as early as 25.03.2013, no reference was made by the Respondent to the CD or to the allegation of "*perverse mindset*" until January 2019.
- (iii). A careful examination of the pleadings reveals that the Respondent consistently sought to project every possible aspect adverse to the Appellant. In that backdrop, the complete omission to disclose, for nearly six years, an allegation of such gravity or the existence of the alleged CD is striking. The Respondent offered no cogent explanation or justification for withholding a piece of evidence claimed to be so material, and this unexplained delay seriously undermines both the credibility and reliability of the allegation.

19. We observe that it was only in the affidavit of evidence filed by the Respondent on 05.01.2019 that, for the first time, reference was made to the CD and the alleged "*perverse mindset*" of the Appellant. It was subsequent to this affidavit that the application dated 21.01.2019 came to be filed. Significantly, paragraph 6 of the said application, insofar as it pertains to the CD, reads as follows:

"6. The Respondent is filing the documents listed at item No.12 is the video footage which the Respondent gathered from the laptop of the Petitioner which then the Respondent had access to and it shows a very disturbing video which in all likelihood was recorded by the Petitioner. The video therefore is very relevant because if such is the conduct of the Petitioner as evident from the video it can be very detrimental to the child Vaidehi in question. The same is EX.RW1/6 as the CD record page 181 of the evidence affidavit of the Respondent."

(Emphasis supplied)



20. This paragraph is notably vague as to the authorship of the video. The Respondent merely stated that the footage was obtained from the Appellant's laptop and that it was "*in all likelihood recorded by the Petitioner*". Such an ambiguous assertion fails to establish authorship or authenticity.

21. We are of the considered view that the Impugned Judgment has failed to take into account the aforesaid aspects. Although the learned Family Court had, in the cross-examination dated 25.03.2019, recorded that the objections of the Appellant would be considered at the stage of final adjudication, no such exercise is evident. Instead, the Court proceeded to brand the Appellant's conduct as reflective of a "*perverse mindset*". In our view, the belated introduction of the CD, the absence of supporting pleadings, non-compliance with Section 65B of the Evidence Act, and the Respondent's own ambiguous testimony as to authorship, together render the CD unreliable and devoid of probative value.

22. We find it apposite to draw reference from the Judgment of the Hon'ble Supreme Court ***State of U.P. v. Mohammad Naim***⁶, wherein the Court held that disparaging remarks must rest only on credible and duly proved evidence, and that no adverse inference can be drawn on the basis of conjectures, surmises, or untested material. The relevant extract of the judgment is reproduced hereinbelow:

"11.It has been judicially recognised that in the matter of making disparaging remarks against persons or authorities whose conduct comes into consideration before courts of law in cases to be decided by them, it is relevant to consider (a) whether the party whose conduct is in question is before the court or has an opportunity of explaining or defending himself; (b) whether there is evidence on record bearing on that conduct, justifying the remarks; and (c) whether it is necessary for the decision of the

⁶1963 SCC OnLine SC 22.



case, as an integral part thereof, to animadvert on that conduct. It has also been recognised that judicial pronouncements must be judicial in nature, and should not normally depart from sobriety, moderation and reserve.”

(Emphasis supplied)

23. In light of the foregoing, we hold that no issue now survives in relation to the custody of the child, Vaidehi, who has attained majority. However, the second issue raised by the Appellant concerning the observations of the Family Court merits acceptance. The finding in paragraph 21 of the Impugned Judgment, attributing to the Appellant a “*perverse mindset*”, is unsustainable and is directed to be expunged from the record. The entire discussion pertaining thereto also stands struck off.

24. We further direct that these adverse remarks shall not be referred to, relied upon, or used by the Respondent in any other proceedings between the parties.

25. The present appeal, along with pending application(s), if any, is disposed of in the above terms.

26. No order as to costs.

ANIL KSHETARPAL, J.

HARISH VAIDYANATHAN SHANKAR, J.

AUGUST 19, 2025/v/sm/kr