

IN THE HIGH COURT OF DELHI AT NEW DELHI

Dated of Reserve: July 02,2008

Date of Order: July 08, 2008

Cont.Cas.(C)No.295/2008 08.07.2008

Mr. Aman Oberoi ...Petitioner

Through: Mr. S.P. Pandey, Adv. With
petitioner in person.

Versus

Ms. Tina Oberoi ...Respondent

Through: Mr. P.K. Aggarwal, Adv. with
respondent in person.

JUSTICE SHIV NARAYAN DHINGRA

1. Whether reporters of local papers may be allowed to see the judgment? Yes.
2. To be referred to the reporter or not ? Yes.
3. Whether judgment should be reported in Digest ? Yes.

JUDGMENT :

1. This Contempt Petition has been filed by the petitioner against respondent for defiance of the order of this Court dated 6th July, 2007 whereby this Court had directed the respondent to hand over the custody of minor child Master Laksh Oberoi to the petitioner on every Sunday at Kwality Sweets, Hari Nagar, Clock Tower, New Delhi and child was to be returned to the respondent at same place same day at 6.00 pm.
2. The above visitation rights were granted to the husband/petitioner by this Court after hearing both the parties and after making unsuccessful efforts to bring consensus between the parties. Thereafter, the wife made application for modification of the order. Husband also wanted more visitation rights and moved this Court for modification of the order. These application were dismissed by the Court on 12th February, 2008. Wife also approached the Supreme Court by way of an SLP against the order of granting visitation rights, but when the SLP came up for hearing she withdrew the SLP.
3. The petitioner/husband filed this petition because wife was not complying with the order of visitation rights. It is contended by the petitioner that despite the orders of this Court granting visitation rights, the wife did not hand over the custody of the child to him on the Sundays between 26th August, 2007 to 12th February, 2008 and 24th February, 2008 till date.
4. The notice of the petition was served upon the wife who appeared along with her counsel and also brought the child to the Court. She stated that she could not comply with the order as the child was unwilling to meet his father. The child in this case is about five and a half years old and is student of Class-I. While her mother was addressing the Court the child started weeping loudly and cried that he does not want to meet his father and he continuously cried for some time. It looked as if weeping button has been switched on. Thereafter, this Court enquired from the child why he was unwilling to meet the father. The child told that his father used to beat him and his mother, during meetings. He could not give a single instance of beating either of him or his mother. It is not the case of respondent also that the petitioner used to beat them at the time of meeting under visitation rights. The enquiry made from the child showed that the mind of child was highly poisoned against the petitioner by the respondent and he was tutored to a great extent. It is amply clear that the respondent who was not agreeable to the visitation rights, had

seen to it that the child himself created such a scene in the Court that the Court was convinced that child was unwilling to meet the father. The child is of tender years age. The manner in which the mind of the child has been poisoned against the father shows that the respondent was out to frustrate the order of the Court.

5. It is apparent that there is a clear and willful design of defiance of the order of this Court by the respondent who used the child as a tool of her design by poisoning the mind of the child to such an extent that the child started crying on just seeing the father without any provocation in the Court itself.
6. Although, it is a clear case of contempt committed by the wife but I consider that it would not be appropriate to sent the wife to the jail since that would cause further trauma of the child and it would be appropriate if a fine of Rs.25,000/- is imposed on the wife for defying the order of the Court. A fine of Rs.25,000/- is imposed on the respondent. In case of default of depositing the fine she shall suffer a simple imprisonment for a period of two weeks.
7. The sentence awarded shall remain suspended for a period of four weeks. She is given an opportunity to mend her ways and comply with the order of Court. If she continuously obeyed the directions of the Court regarding visitation rights, the sentence shall remain suspended. However, it is made clear that in future non-compliance of the order shall amount to further contempt of Court.

The petition is disposed of with above directions.

July 08, 2008

SHIV NARAYAN DHINGRA J.