

IN THE COURT OF PRINCIPAL DISTRICT JUDGE, TIRUVALLUR
PRESENT: Tmt.J. JULIET PUSHPA, B.Sc., M.L.,
Principal District Judge, Tiruvallur

Wednesday, the 30th day of April , 2025

I.A.2/2024 in GWOP.19/2024
(CNR No. TNTR010006782024)

Pradheep Kumar Janarthanan

....Petitioner

Versus

Sajitha Krishnan

.....Respondents

This Petition coming on for final hearing on 25.04.2025 in the presence of M/s K. Jothisivam, K. Murugan, S. Nedunchezhiyan, learned counsel for the Petitioner and M/s P.S. Palraj, M. Ashok, J. Vikash, learned counsel for the respondent, and upon hearing the arguments of both side and upon perusing the material case records and having stood over for consideration till this date, this Court delivered the following:-

ORDER

This Petition filed by the petitioner under Section 12 of Guardians and Wards Act, 1890 to grant interim custody of the petitioner's daughter Ananyaa (born on 30.09.2019) to the petitioner during weekends (Saturday and Sundays) and festival

2. **The averments in the Petition filed by the Petitioner are as follows:-**

The petitioner is the petitioner in the main Original Petition praying to grant custody of his minor child Ananyaa. He is the father of the minor child.

The marriage between petitioner and respondent was held on 17.03.2014 at Mahabalipuram Chennai and due to wedlock, female child Ananyaa was born on 30.09.2019. Even before the marriage and after engagement, the petitioner came to know that the respondent is having an affair a married man which she had admitted and only since she begged the petitioner to marry her, the petitioner consented the marriage. Due to the wedlock a male baby Mokshith was born on 09.01.2015. Since the respondent was working in Sundaram Finance, she left the male baby careless and the child spent all alone the entire day. Even after the marriage and birth of male child, she continued her contact with her ex-boyfriend and at the advice of petitioner, she quit the job and took care of the male child Mokshith. When the boy was two years old, he was diagnosed with autism. The petitioner took care of the child and also the respondent, but the respondent never showed any gratitude or affection towards the petitioner. The second baby Ananyaa was born on 30.09.2019 and after the birth of second baby, she never took care of the children and used to disrespect the petitioner's mother and the respondent never listens to the advice of petitioner. She used to leave the house without information. On 27.02.2022 when he was work in Canada, he got a call from MMM Hospital service that his son had fallen from terrace due to respondent's carelessness and the boy died on 28.02.2022. After the death of the son, the respondent used to pickup quarrel and intended to extract money from the petitioner and at last on 12.04.2022, she

left the matrimonial house taking away the child Ananyaa with her to her parents house. The respondent was having contact with her school mates Thanigai Prabhu and Masilamani and even the petitioner suspect his son's death and lodged a complaint before Commissioner of Police for which both attended the enquiry on 05.05.2022 and the police failed to take action. The respondent refused to return to the petitioner and living with his daughter. The respondent is not caring about their daughter and her future and stayed separately leading a wayward life and mended her behavior. Though he filed HMOP.34/2022 for restitution of Conjugal rights before Sub Court, Poonamallee. Thereafter, the respondent forcibly detained the daughter Ananyaa with her and refused to meet his daughter even after police complaint before Thirumangalam All Women Police station, Chennai in CSR No.195/2023 dt. 20.07.2023. The respondent is not taking care of his daughter and her intention is only to live with her boyfriend. Hence, the petitioner filed HMOP.1179/2023 against the respondent seeking divorce on the ground of cruelty which is pending in Sub Court, Ambattur. The petitioner's daughter is affectionate towards him and he is affectionate for the upbringing of the child as the respondent has no intention to take care of their daughter's future. The petitioner has purchased 190 grams of gold on 19.08.2020 for the welfare of minor child and also deposited Rs.3 lakhs in Post Office Suganya Samridhi Scheme. Since the respondent is not taking care of the child and only concentrating on her job and relationship with another

man the petitioner filed the original petition seeking permanent custody of the child. The petitioner is the natural guardian of the child. Hence, seeks to order for interim custody of the child during weeks, i.e on Saturday and Sunday.

3. **The averments in the Counter filed by the respondent in brief is as follows:-**

The respondent admits the marriage and birth of the minor wards. The respondent vehemently denies all the allegation that she is having relationship with other men as an utter false. There is no necessity for the respondent's family to rely on the petitioner for financial needs as the respondent is a working woman. The petitioner was always out of station for his job and in his absence, her in-laws were ill-treating the respondent. After the birth of the male child, the respondent was always taking complete care. The sudden death of the baby boy was unexpected once since the child fallen from the upstairs. The petitioner has made unnecessary accusation against the respondent about her character and also against her family without any basis. The petitioner made big issue of school friendship which was already revealed to the petitioner. The respondent resigned her job only to take care of her child Mokshith. When the child was diagonized with autism she was very upset and at that time she was pregnant for the second child. But the petitioner's family was always demanding money or jewels from her family and she was forced to get another male heir within few days of the death of her male baby. Only due to the

regular demand of dowry by the petitioner's family, and on 12.04.2024, the petitioner and his family members beaten her seriously to have another male baby few days after the death of first male child and driven her out from the matrimonial house. The petitioner never took care of the female child. Even though the respondent is willing continue to live with the petitioner, he wantonly filed HMOP.1179/2024 for divorce. Her leaving the matrimonial is not voluntarily but only due to the harassment meted out to her by the petitioner and his family. The petitioner is not having any real love and affection either towards the respondent or to the child. The petitioner is having only interested in sexual life and not affectionate family life. Even the respondent has no knowledge about the petition filed by petitioner for restitution of conjugal rights. The petitioner is having affair another woman and when she questioned the same, he assaulted the respondent. On 08.10.2024, the the baby girl is having wheezing problem and the doctors advised for continuous treatment. Therefore, the respondent is not ready to send her daughter with the petitioner, but the petitioner may come and visit the daughter in her house. The petitioner is always working in ships and away somewhere, therefore he is not entitled to seek custody of the female child. Still there are chances for reunion. Hence, prayed to dismiss the petition.

4. No oral and documentary evidence on both sides.

5. **Now the point for consideration in this petition is**
Whether this petition to grant interim custody of minor child
Ananyaa to the petitioner during weekends and festivals as
sought by petitioner is ordered to be allowed or not ?

6. **POINT:**

Heard both side.

This petition is filed by the petitioner/father seeking interim custody of his minor child Ananyaa during weekends and Festivals.

7. On perusal of records and points putforth by both counsel, it is seen that main original petition was filed by the petitioner against the respondent seeking custody of the his minor daughter, Ananyaa and directing the respondent to hand over his minor daughter for permanent custody. The petitioner is none other than biological father of the above child and the respondent is the mother of the child.

8. On perusal of records and points put forth by both counsels, it is learnt that the petitioner and respondent is husband and wife. Out of their wedlock, one male child Mokshith was born on 09.01.2015, but later he died on 28.02.2022 due to fall from upstairs in the house. The second child of petitioner and respondent Ananyaa was born on 30.09.2019 . It is the case of the petitioner that the respondent is having some relationships with other men

and she has forcefully taken away the child into her custody and left the matrimonial house and now living separately with the child and denies the custody of the child with the petitioner.

Per contra, the respondent accuses of the petitioner stating that he was always away owing to his job and unnecessarily suspecting the respondent and also accuses the respondent for the death of male child and also used to ill-treat her. The In-laws of the respondent also not fond of the respondent and child, thus she left the matrimonial house and living separately and also the child is comfortable with the custody of the respondent.

9. Reasons for seeking interim custody of the child is that the petitioner was that the respondent never cared about the child as she is leading a wayward life. Even though the respondent is living separately with the minor daughter Ananyaa, The respondent vehemently opposed the case of the petitioner, the petitioner never cared for the respondent or the child and he has filed this petition only to harass the respondent and the petitioner is having some relationship with other woman.

10. The main contention of the petitioner seeking custody of the minor child Ananyaa is that the respondent is not taking care of the child and forcefully taken away even though the child is affectionate towards the petitioner. On the other hand, the respondent objected that the petitioner failed to utilize the opportunity of exercising his visiting rights and his motive is only

to harass the respondent.

11. On perusal of records, it shows that the marital relationship between the petitioner and the respondent is already strained and now Original petition seeking divorce filed by the petitioner is pending. Now, the petitioner, being father of the minor child approached this Court seeking interim custody.

12. It is always good for the upbringing of the child with the love and affection of both the parents. In view of the above said contentions of both parties and also since almost two years have already passed since the child seeing the petitioner, this Court wanted to have interaction with the child to ascertain his willingness for the plea of the petitioner to the interim custody of his minor daughter Ananyaa. Accordingly, this Court interacted with the minor child on 25.04.2025. The minor daughter of the petitioner, Ananyaa could not recognize the petitioner as her father and also it appears that she is not willing to go anywhere apart from her mother. When asked about whether she is willing to leave her mother to accompany with father, she started weeping. Thus, it appears that she is happy with the custody of the respondent and not willing to accompany with the petitioner/father for days together.

13. Moreover, minor Ananyaa is a female child and just 5 years old. Even As per section 6(a) of the Hindu Minority and Guardianship Act, 1956, which outlines the natural guardians of a Hindu minor, stating that in the case of a boy or unmarried girl, the father is a primary guardian, followed by the

mother, with the mother having custody of minor under five years old. Further, this Court has ascertained the fact during the interaction with the minor ward that the minor daughter of the petitioner is now aged 5 years and has not attained the stage of realizing her requirement as well as the circumstances now prevail in the family, but her expressions shows that she is comfortable and happy with the company of her mother. Though the petitioner is a natural guardian and biological father of the minor child, since the child herself , who is now aged 5 years female child having not much acquaintance with the petitioner for the past two years, considering the interaction this Court had with the minor ward, if the plea of the petitioner is allowed, the minor child would be put to hardships as she has not attained the age of expressing her willingness whether she is willing to accompany with her father. Therefore, the plea of the petitioner with regard to interim custody on all holidays , i.e Saturdays and Sundays cannot be granted. Moreover, petitioner has not made out any any adverse consequences over the custody of the child with the respondent towards her status and health. On the other hand, the respondent states that the child has developed some wheezing problem for which she is in need of constant medication and also should be under the care of the mother/respondent.

14. In view of the discussions above, this Court comes to conclusion that present custody of the female child with the respondent is not having any adverse consequences upon the child and she is very comfortable with her

mother and also considering that the child could not recognize the petitioner as her father and also unable to express and also appears to be not willing to go into the custody of any other person at present much less the petitioner, this Court cannot consider this petition seeking interim custody. Therefore, this Court is not inclined to entertain this petition and the same deserves to be dismissed.

In the result, this petition is dismissed. No costs.

Dictated to the Steno-Typist, transcribed by him, corrected and pronounced by me in the Open Court, on this the 30th day of April , 2025

**PRINCIPAL DISTRICT JUDGE
TIRUVALLUR**

Petitioner side witnesses & Exhibits : NIL

**PRINCIPAL DISTRICT JUDGE
TIRUVALLUR**