

IN THE COURT OF PRINCIPAL DISTRICT JUDGE, TIRUVALLUR
PRESENT: Dr. J. JULIET PUSHPA, Ph.D. (Law)
Principal District Judge, Tiruvallur

Friday, the 28th day of November , 2025

I.A.1/2025 IN GWOP.166/2025
(CNR No. TNT010029202025)

M.L. Sairam,

....Petitioner

Versus

S. Vidhya,

.....Respondent

This Petition coming on for final hearing on 14.11.2025 in the presence of M/s Nagesh Nakhul learned counsel for the Petitioner and M/s D. Parthiban, S. Razaak,, 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 prays to grant petitioner the interim custody of the minor child Kiara Vidya Sairam, D/o M.L.Sairam, aged 4 years and place her in his care and protection, forthwith until disposal of the main original petition.

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

The petitioner states that the he filed original petition seeking guardianship of his minor daughter Kiara Vidya Sairam. The marriage between petitioner and respondent was solemnized on 23.05.2014 at Aditya Subhmangalam ThirumangalaMahal, Chennai and out of wedlock, one female

child Kiara Vidya Sairam was born, now aged 4 years. The child is under the forceful custody of respondent. The petitioner is an Engineer and employed as Cloud Engineer. The respondent is also educated and known to be gainfully employed. The respondent was extremely short lived, her portrayed herself being person desiring a stable family life made during courtship turned completely false. The respondent was disinterested in domesticity and had flair for social life which included late night outings, partying into midnight and consumption of alcohol and other intoxicants which created recurring difference of opinion between the petitioner and respondent. The petitioner hail from family oriented background. The respondent irrespective of unreasonableness had orders and commands over the petitioner for household management. Even after the birth of the child, the respondent continued to be a stubborn person. Due to her carelessness, the child was born with two medical conditions Cleft Palate and *Patent ductus arteriosus* (PDA). The respondent did not want any family members even to know the child's condition including petitioner's parents. The petitioner was willing and prepared to take every measure to raise the child. Even at the wish of respondent when the petitioner shifted to Erode which is respondent's native, the respondent refused to share room with the petitioner and slept separately. The petitioner found the respondent was using her mobile phone at odd hours and had illegal contact with one Praveen Elamaran. The said person was in love interest with respondent and she resumed contact with him. Thus, petitioner appointed full time caretaker for the

child. She regularly took trips for attending late night parties, consuming alcohol along with friends with the said Praveen Elamaran. The conduct of respondent is absolutely unbecoming of mother. Surgery was held for child's cleft palate condition in the first week of May 2024 and during this time the respondent embarked 10 day trip to Kashmir and hindered the surgery. She scuttled the process from going on by claiming that she would find better hospitals in Bangalore. Instead of finding hospital , she used her visit to Bangalore for partying and did not pursue the treatment for the child.

Even the respondent did not participate the death of petitioner's father on 15.06.2023. She abandoned the responsibilities upon her daughter and pets, and went to two secret night at private villa in Chennai with the said Praveen Elamaran. On 19.09.2023, the child's earlier surgery was successfully completed at Kanchi Kamakoti Child trust hospital and respondent was barely present during the treatment. On 24.09.2023 the respondent's parents also visited the hospital and when the petitioner agitated about the conduct of respondent, she assaulted the petitioner in hospital. Thus, the respondent took the child relocated into a separate apartment in Chennai to enjoy her debaucherious lifestyle. Hence, he initiated the divorce by mutual consent with the intention to have custody of the child Kiara, which the respondent initially accepted. However her paramour Praveen Elamaran abandoned his affair with her and married another woman, for which the respondent outrageously blamed me for the same and vowed to destroy the petitioner's life to settle her

vengeance. The respondent began using the child as pawn to manipulate the petitioner and also threatened the said Praveen to engage with her after his marriage. Whenever she wanted to pursue her characterless ways, she would leave the custody of child with petitioner and whenever he got angry with the petitioner she would take the child to her custody. On 16.05.2024, the respondent visited his house and forcibly taken custody of the child and concealed the information about his daughter. The petitioner filed divorce on the ground of cruelty and adultery which is now pending in HMOP.276/2025. Hence, the petitioner filed the original petition seeking permanent custody of the child. The respondent is continuing to lead the same life ignoring the welfare and care of the child and taking part in night club and late night parties. There is imminent threat to the safety of the child as the child should be kept distance from potent intoxicants, fire and ash. The child's health would be deteriorated under the custody of the respondent. The respondent is living separate life and leading immoral life. Given her penchant for partying and intoxicants she is completely unsuitable for raising the child. On several occasions, she even threatened and beat the child. The petitioner even ready to withdraw HMOP.276/2025 seeking divorce. The petitioner is having mental health issues due to the conduct of the respondent and during the separation, he had recovery. If the custody is remained with the respondent it would cause serious harm on the welfare of the child. Hence, prayed to grant interim custody of his minor daughter, Kiara Vidya Sairam to the petitioner till the disposal of

main original petition.

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 ward on 21.08.2021. The respondent vehemently denies all the allegations in the petition. The petitioner never intended for the child's custody. The petitioner abandoned the child. The petitioner and the respondent lived together for 11 years and the respondent never spent money for her own pleasure only for petitioner's family. All the allegations of night outing and consumption of alcohol are all false. After child's birth she was on maternity leave till August 2022. The petitioner and respondent moved to Erode in September 2021 and in June 2021 moved to Nellore and she started working from home from June 2021 in Nellore. There is no pub in Nellore. The petitioner is a chain smoker, alcoholic, druggist from college days and used to go for alcoholic parties with friends and relatives. Even he forced the respondent to host the parties in home. They get drunk a lot and argue a lot on certain topic which will result in physical assault on respondent. The respondent was forced to clean the house after their party. It was a mutual decision to start the business of starting café business. The expenses were entirely borne by respondent by bank loan. The respondent wish to pet dogs is accepted by petitioner willingly. The petitioner did not keep the house hygiene. The petitioner spent money lavishly for branded items without even paying their debt. The petitioner continued chain

smoking and alcoholic habit, the petitioner is having partial impotency for which the petitioner's family forced the petitioner to take medical advice. Only after his fertility treatment issues, she was able to bear a child. The medical records proves the same. She worked with pressure during pregnancy. The petitioner used to spend time with his friends leaving the child and pets to suffer. He was never in the home most of the time. The petitioner never concerned about the life and the child. He himself had affair with numerous women and hid his own faults of being bisexual. The alleged intimacy with Praveen are all false. The petitioner has intermittent explosive disorder and got angry everything unnecessarily and behave violently as he was addicted to drugs at young age. The child's medical treatment was taken care of entirely by the respondent. She moved to Chennai only due to unbearable domestic violence meted out by petitioner. During the surgery of the child, the petitioner only formally vested the child and he was not able to stand there atleast for an hour. During 5 days in hospital he visited only thrice and not even available while discharge of the child. Though the respondent consented for mutual divorce, the petitioner threatened her to give custody of the child. The petitioner cannot take care of the child with unclean habits and in unhygienic condition. The petitioner never supported during the child's most difficult times. From June 2023, they are separated and moved to Chennai. For the hospital emergency, the petitioner only transferred Rs.15,000/-. The petitioner is a great threat to child's life and future. The petitioner had gone through many

counseling for his cruel behavior but all ended in vain. The petitioner during his visit to hospital he had physically abused the respondent. The respondent never spent any money not even the child's school fees. Since petitioner's mental health issues came to the knowledge of the respondent, his parents were trying to suppress the same. Even the petitioner brutally attacked the respondent, hitting slapping crushing jaws, hurting private parts, and raped many times. The respondent is having proof of dowry abuse and domestic violence. The petitioner came to Chennai blackmailed the respondent on various terms took the child for a week and returned her only on 1st September 2023. Child was handed over in April 2024 on mutual terms, when she received back on May 2024, the child was in bad physical abuse state and nail marks of dogs found all over her body. The respondent is not the reason for separation but only due to harassment of petitioner. The child undergone two surgeries and needs intensive cardiac surgery and needs to be taken very carefully. In such situation sending the child with the irresponsible petitioner is not fair and it will be completely against the welfare of the child. 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

Kiara Vidya Sairam to the petitioner 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 daughter Kiara Vidya Sairam.

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

8. It is admitted that the petitioner and respondent are husband and wife. Out of their wedlock, one female child Kiara Vidya Sairam was born on 21.08.2021. It is the case of the petitioner that the respondent caused cruelty against the petitioner as she was leading an immoral life having illicit contact with one Praveen Elamaram and was always indulging in late night parties in pubs and also consuming alcohol and intoxicants and the child is not in the safe and conducive environment to grow , since the child undergone cardiac surgery and needs between environment and custody, the respondent forcefully taken the custody of the child 16.05.2024 and living separately and leading a wayward life hence, sought for interim custody of the child till disposal of the original petition.

Per contra, the respondent accuses of the petitioner stating that he was having drug addiction and smoking, partying with friends and had serious mental health issues, and also he is mentally not fit to take care of the child, since he previously abused the respondent and also he never shown any interest in caretaking the child and not even spent a single pie for the welfare of the child.

9. Reasons for seeking interim custody of the child is that the petitioner is an alcohol consumer and partying late night and also leading immoral life having contact with male persons. On the other hand, the respondent put the same allegation of partying drug abuse and also mental health issues upon the petitioner.

10. The petitioner in order to prove the allegation as against the petitioner has filed photos with videos showing that she was partying with a male person and forcing the child to dance with them and also engaging the child in an environment which is not conducive for maintaining the mental and physical status of the child. On perusal of the videos, which the petitioner extracted from the social media of the respondent, it reveals that the respondent is indulging in having party with her friends including a male member. Though the petitioner states that she is attending pubs, the videos produced appears that it was in the house as well as in a partying hall which she was attending along with the child. The child is also taken along with them during such partying and such refreshment parties where the child was also made to dance along with the persons with the respondent. It appears inappropriate and unwarranted which

does not create a conducive environment for the child. Those videos taken from the social media of the respondent is not specifically denied by the respondent, but denies that she was not attending pubs.

11. On the other hand, the respondent also submitted the photos and videos along with certificate under 65-B of Indian Evidence on the petitioner, wherein he was seen partying with his friends and also smoking. Both side accuses each other towards their conduct, physical and mental conditions in taking care of the child. Since both side produced photos and videos showing each other's habit of having friends, partying and consuming alcohol other social activism, this Court does not want to go into the validity of such document since the same is not the concern in this petition and the custody cannot be decided on documents, oral evidence or precedents, but with empathy. Empathy coupled with human touch is the fundamental platform which ensures the welfare of minor, since the other materials may be portrayed either by the parties themselves or on the advice of counsel to suit their convenience.

12. Admittedly, the minor female child, Kiara Vidya Sairam is now under the custody of her mother/respondent. It is settled law that the custody of the female child below five years of age is typically granted to the mother, as it is presumed that the mother is the primary caregiver during this period. This is codified in the Hindu Minority and Guardianship Act, 1956. In respect of custody of minor wards, it is settled law that child's welfare is the supreme

consideration, irrespective of the rights and wrongs of its contending parents, although the natural rights of the parents are entitled to consideration. In determining whether it will be for the best interest of a child to award its custody to the father or mother, the Court may properly consult the child, if it has sufficient grounds. A child is not property or commodity. Issues relating to custody of minors and tender aged children have to be handled with love, affection, sentiments and by empathetic approach to the problem.

13. The main contention of the petitioner seeking custody of the minor children is that the respondent is not taking care of their minor daughter and forcefully taken away and she is leading a wayward life separately attending the night parties/pubs, consuming alcohol and having contact with male persons, which is stoutly denied by the respondent. On perusal of records, it shows that the marital relationship between the petitioner and the respondent is already strained and they are living separately and the petitioner has already filed petition seeking divorce which is pending before Sub Court, Poonaamlee.

14. It is always good for the upbringing of the children with the love and affection of both the parents. In the cases of seeking custody of minor children, the paramount consideration must be the welfare of the minor wards. In view of the above said contentions of both parties and also since almost two years have already passed since the child is separated from the petitioner, this Court wanted to have interaction with the minor Kiara Vidya Sairam to ascertain her willingness for the plea of the petitioner to the interim custody of

her minor children. Accordingly, this Court interacted with the minor child on 05.11.2025. During the interaction the child was unable to recognize the petitioner as her father, as she is in her tender age of 4 years and met him before two years, but consented to see her father.

15. The Hindu Minority and Guardianship Act, 1956, specifies that the custody of a minor child who has not completed five years shall naturally be with the mother. This provision reflects the belief that young children are best cared for by their mothers. In cases of custody of child, the society values are riddled with contradiction. The Hon'ble Supreme Court has reiterated time and again, that the welfare of the child would be of paramount consideration as reported in (2019) 7 SCC 42(*Tejaswini Gaud and others Vs. Shekhar Jagdish Prasad Tewari and Others*), wherein it is held that

“the court while deciding custody cases of the child, it is not bound by the mere legal right of the parents or guardians. Though the provisions of the special statutes govern the rights of the parents or guardians, but the welfare of the minor is the supreme consideration in cases concerning the custody of the minor child. Therefore, the paramount consideration should be the interest and welfare of the child”.

The Hon'ble Supreme court further held that paramount consideration should be the welfare of the child and due weight should be given to child's ordinary comfort, contentment, health, education, intellectual development and favorable surroundings.

16. The paramount consideration of this case is “the welfare of the child” and not the rights of her parents. On this point, this court relies upon the judgment of Hon“ble Supreme Court in the case of Gaurav Nagpal v. SumedhaNagpal, passed in Civil Appeal No.5099/2007 on 19/11/2008, wherein in para 40 of the judgment, the Hon“ble Supreme Court has observed that

“Merely because there is no defect in his personal care and his attachment for his children, which every normal parent has, he would not be granted custody. Simply because the father loves his children and is not shown to be otherwise undesirable does not necessarily lead to the conclusion that the welfare of the children would be better promoted by granting their custody to him. Children are not mere chattels nor are they toys for their parents. Absolute right of parents over the destinies and the lives of their children, in the modern changed social conditions must yield to the considerations of their welfare as human beings so that they may grow up in a normal balanced manner to be useful members of the society and the guardian court in case of a dispute between the mother and the father, is expected to strike a just and proper balance between the 25 requirements of welfare of the minor children and the rights of their respective parents over them.”

Here, the petitioner accuses the respondent with the conduct of partying, having the habit of alcohol and contact with other male members and in turn, the respondent accuses the petitioner of drug addiction, alcoholism, partying

with friends, bisexual and also having serious mental issues. Though both side accuses each other of their behavior and conduct, this Court is now considered only upon the welfare of the child, which is the paramount consideration in this petition.

17. Though both side produced photos and videos , this Court does not want to go in detail to discuss about the conduct of both side as both side shows some unwarranted habits on their part like drinking, partying with friends and even having alcohol or smoking on the part of the petitioner, which are not desirable environment for the upbringing of the child. While the petitioner assail the conduct of the respondent/mother as she was attending pubs along with the child, the respondent accuses the petitioner is having alcoholism and drug addiction and also mentally rude. Further, it is admitted by both the parties that the child had undergone cardiac surgery recently and needs better environment, care protection and upbringing.

18. Moreover, the child is only 4 years old. At this stage, she would have no preference or realize which would be her better environment to grow. Therefore, based on the enquiry with the child also the custody of the child at this tender age cannot be decided.

19. In this petition seeking interim custody of his minor daughter, the petitioner/ father has mainly alleged to assassinate the character of his wife , i.e. mother of the child to highlight that the welfare of the child, would be better if she is given in custody to father. The narrative put forth by the father about the

medical care is not fortified by the action of father except averments on this petition. The respondent accuses the petitioner that he was not taking care of the child at the child's most difficult time as when the child was discharged from the hospital, he was not there. In these circumstances, this court considers that if the father was really concerned with the welfare of the child by providing her medical treatment, then he should have brought such circumstances before the Court to evaluate his conduct instead of assassinating the character of wife and vice versa. Therefore, it would be important to set a red line. However, this Court considers the case of the respondent that previously, i.e. two years before when the respondent took the child to his custody and when he returned the child after a week in the month of May 2023, respondent found nail marks of dogs found all over her body. Further, the facts and circumstances of the case show that the father stays alone and not with his family. Therefore, as per our tradition and culture, it can be presumed that the custody of the child would be better in the hands of her mother for her overall development as being a girl child as she has to undergo certain biological changes with her.

20. In these circumstances, this Court does not find any circumstances justifying the custody of the child to be given to her father and finds that that the welfare of the child would be better in the hands of her mother. Therefore, the plea of the petitioner with regard to interim custody of his daughter cannot be granted. Moreover, petitioner has not made out any adverse consequences over the custody of the child with the respondent, who is none other than the

mother of the minor ward.

21. At the same time observing the documentary evidences of both side about the conduct of the parties on either side, this court observes that the respondent being the mother of the minor ward must act responsibly in upbringing of the child as it is shown that she is attending the parties with her friends in the pubs and also exposing the child to such environment. It must be recorded that the parents need to give the child security , gentle experience and childhood filled with warmth. They should choose the places that support the child's comfort, purity and emotional safety since safety and wellbeing of the child is utmost priority. **The respondent should create a conducive physical and emotional environment for better growth and improvising the safety of the child. Only such environment will ensure fostering the child's growth in a better way. The respondent, being the mother has to choose an environment that helps the child to grow emotionally, intellectually and socially. The respondent must try to shape the child's future with love and blessed with positivity. The child deserves an environment that guards her innocence.** This petition is sought for by the petitioner for interim custody, hence, this court has to sail only the present circumstances to decide whether interim custody of the minor child to the petitioner.

22. In view of the observations above, this Court comes to conclusion that present custody of child with the respondent is not having any adverse consequences upon the child and she feels comfortable with her mother which

is elucidated from the interaction this Court had with the child on 05.11.2025. Further, the minor child, aged 4 ½ years now needs mother's care as she had undergone cardiac surgeries. As such, this court declines the plea of petitioner for interim custody. At the same time, considering the accusation on the side of the petitioner upon the respondent and also considering the documents filed by both side about the conduct of both petitioner and respondent, this Court feels that that the child also requires the attention of her father periodically. As such, this Court considers that the petitioner, being father of the minor child is entitled to have visitation rights upon her daughter at least once in a month. These points are answered accordingly.

In the result, this petition is dismissed. Considering the relationship of the petitioner , being the father of the minor child, this court is inclined to grant visitation rights to the petitioner to his minor daughter Kiara Vidya Sairam once in a month with the following conditions.

- 1. The respondent is directed to produce minor Kiara Vidya Sairam to the petitioner at the Office of the District Legal Services Authority, Tiruvallur on the first Saturday of every month between 2.30 PM to 5.00 PM in the presence of Secretary, District Legal Services Authority, Tiruvallur.**
- 2. The petitioner is given liberty to interact with his minor daughter at the above place and time.**

- 3 The respondent, at the time of the interaction of petitioner with her minor child shall not give trouble to the petitioner and the minor ward.**
- 4 Both the petitioner and respondent shall act with best interest of the minor ward.**
- 5. The petitioner and the respondent shall ensure that during the visiting hours, the minor ward should not be subjected to any mental agony.**

Dictated to the Steno-Typist, transcribed by him, corrected and pronounced by me in the Open Court, on this the 28th day of November, 2025 .

**PRINCIPAL DISTRICT JUDGE
TIRUVALLUR**

Petitioner side witnesses & Exhibits : NIL

**PRINCIPAL DISTRICT JUDGE
TIRUVALLUR**