

**SUPREME COURT OF INDIA**

Ajaya

Vs.

Sanjay Golecha

Transfer Petition (C) No.913 of 2005

(B.N. Agrawal and G.S. Singhvi JJ.)

07.01.2009

**ORDER**

1. Heard learned counsel for the parties.

2. A joint petition of compromise has been filed by the parties wherein they have agreed to suffer a mutual consent divorce decree and have made following prayers:

“(a) Accept the compromise entered into between the petitioner and the respondent.

(b) That this Hon'ble Court may kindly dissolve the marriage between the petitioner and the respondent and pass the decree to that effect.

(c) (i) That both the parties agreed that the custody of the child, Gitika, born out of their wedlock may be given to the petitioner, i.e., the mother and agreed that Gitika will stay with the petitioner and that the petitioner will not part with the custody of Gitika to any of her relatives for her brought up. In case the petitioner is unable to maintain Gitika by herself, then the custody of Gitika would be given to respondent.

(ii) The respondent will have visiting rights in terms of para 4(iii).

(d) That this Hon'ble Court may kindly quash all the proceedings in the cases pending before- (i) Ld. Special Judge, Family Court, Indore (M.P.) in H.M.A. No.280/2004 pending before the court of Special Judge, Family Court, Indore (M.P.) and (ii) M.J.C. No.1157/2002 pending before the Ld. Family Court, Indore (M.P.); and (iii) Criminal Appeal No.456/2007 presently pending before Xth Additional Session Judge, Indore (M.P.) against the order passed by the court of III Additional Judicial Magistrate, First Class, Indore (M.P.) in Criminal Case No.2210/2005.”

3. Para 4(iii) referred to in prayer '(c)(ii)' reads as follows:

“That the respondent will have a visiting right to his daughter Gitika. The respondent and his family members (blood relation) together with the respondent will have a right to visit to the daughter Gitika every last Sunday of the 3rd month, 6th, 9th and Twelfth month of every year and would meet her alone and would also be allowed to take her out alone with himself/but not with force and not to respondent's house and meeting will be held in the city/town where the petitioner will be residing. The address of the petitioner where she with daughter Gitika is residing will be kept informed to the respondent by the petitioner by giving phone number and address. The respondent will also be allowed to know his daughter Gitika progress in Education.”

4. Having heard learned counsel for the parties and perused the petition, we are satisfied that the compromise is lawful. Accordingly, H.M.A. No. 280 of 2004, pending before the Special Judge, Family Court, Indore, within the State of Madhya Pradesh, is transferred to this Court and the said suit is disposed of on the terms enumerated in the compromise petition, which shall form part of this order and a mutual consent divorce decree is granted.

5. We further direct that in view of the compromise, M.J.C. No. 1157 of 2002, pending before the Special Judge, Family Court, Indore, within the State of Madhya Pradesh, shall stand withdrawn.

6. So far as the prosecution of the respondent in Criminal Case no. 2210 of 2005 is concerned, it has been stated that he was acquitted by the Third Additional Judicial Magistrate, First Class and Criminal Appeal No. 456 of 2007 was dismissed by Xth Additional Sessions Judge, Indore and against the appellate judgment, the matter has not been carried to the High Court.

7. Transfer Petition is, accordingly, disposed of.

8. Transfer Petition (Crl) Nos. 459 of 2005 and 70 of 2007.

9. In view of the order passed in Transfer Petition (C) No. 913 of 2005, no further order is required to be passed in these cases.

10. Transfer petitions are, accordingly, disposed of.