IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. /2025
[ARISING OUT OF SPECIAL LEAVE PETITION (CRL.) NO.12458/2024]

POONAM WADHWA **APPELLANT(S)**

VERSUS

AJAY WADHWA & ORS. **RESPONDENT(S)**

O R D E R

1. **Leave granted.**
2. **We have heard learned counsel for the parties in the presence of their respective clients (i.e. the parties).**
3. **Upon hearing the learned counsel for the parties as well as the parties, we do not think that an amicable resolution of their differences is possible at this stage. Therefore, we propose to consider the matter on merits.**
4. **This appeal impugns an order of the High Court of Punjab and Haryana at Chandigarh[1] dated 1st July, 2024 in CRR No.2069/2022 (O & M) whereby the High Court allowed the Revision Petition of the respondent (father) and set aside the orders dated 30th July,**

1 1 The High Court

2022 and 23rd September 2022 by which the appellant (mother) was given the custody of Arjun Wadhwa (their minor son). While passing the impugned order, the High Court, left it open for the parties to avail their remedy for seeking custody of minor children in proceedings under the relevant statutes which are stated to be pending before the Family Court.

5. When the lower court had passed the custody order in favour of mother (i.e., the appellant) Arjun was below 5 years in age. However, during the proceedings before the High Court Arjun crossed 5 years. He was also produced before us on 21st August 2025. After interacting with him as well as his sister, and after hearing the learned counsel for the parties in the presence of their respective clients, we had passed a detailed order on 21 August 2025 which is reproduced below:

> "1.On 25.11.2024 this Court had required the parties to explore the possibility of settlement through mediation under the aegis of the Supreme Court Mediation Centre. Unfortunately, no solution could be arrived at. Today, the petitioner (Poonam Wadhwa) and the first respondent (Ajay Wadhwa) had come with their daughter - Arushi Wadhwa and son-Arjun Wadhwa. After brief interaction with the children, we could notice that they desperately

wanted to be in the company of each other though they did not want to separate from their respective parents. Arushi is with her mother (Poonam Wadhwa) whereas Arjun is with his father (Ajay Wadhwa).

2. Having regard to the interest of minor children, we separately interacted with Poonam Wadhwa and Ajay Wadhwa. Thereafter, we interacted with them in the presence of each other.

3. From our interactions with them, it appears that their differences are not on account of any misconduct of one against the other but on account of attitudinal problem more so because both are working and financially independent.

4. In such view of the matter, we requested the couple to meet each other more often, particularly on weekends, along with their children so that the tension inter se them abates and they resolve their differences. More so, to ensure a bright future for the two young children.

5. We have been apprised of there being multiple proceedings inter se parties in various courts.

6. In such circumstances, to give the couple a chance to peacefully avail opportunity of resolving their differences, as an interim measure, we deem it appropriate to direct that all proceedings inter se parties pending in all courts shall remain stayed for a period of next three months. In the meantime, the visitation rights which the parties enjoy qua their respective children shall continue in terms directed earlier.

7. List this matter on 19 November 2025 in Chambers at 2.00 P.M. Petitioner and the first respondent shall be present on the next date.

8. In the meantime, we expect that the petitioner and the respondent shall meet each other more often along with their respective children and plan holidays, dinners or parties together, subject to their convenience.

9. We hope and trust that this arrangement results in a better life for the couple and their family."

(Emphasis supplied)

6. **Today, when the matter was taken up, we were informed that the parties could not resolve their differences and are not able to live together. We were also told that the terms of settlement extended from appellant's side to the respondent side included divorce by mutual consent. However, the respondent (Ajay Wadhwa) is not agreeable to such a proposal. Consequently, we have observed above that there is no chance of a settlement between the parties at this stage.**

7. **While addressing us on merits, the learned counsel appearing for the appellant has pointed out certain observations in the order impugned to contend that the impugned order suffers from certain errors which may warrant an interference of this Court. Our attention was drawn to paragraph 38(i) wherein it is recorded**

that Ajay Wadhwa who is employed with Oracle is discharging his duties by working from home whereas Poonam Wadhwa (his wife) has long working hours and is working as an Associate Manager at Virtusa, Gurugram. It is stated by the learned counsel for the appellant that the aforesaid observation creates an impression that better care could be provided by the parent who works from home than the one who works at the office. It is submitted that nature of the job of Poonam Wadhwa is such that she could also work from home and, therefore, this was not a relevant consideration for the High Court to place the minor son in the custody of his father.

8. **The other point urged is regarding the distance of Heritage School at Vasant Kunj from the place where the mother resides as compared to the place where the father resides. It is the submission of the learned counsel for the appellant that the distance is almost equal or perhaps less from the place where mother resides and, therefore, the observation that the child would have to spend a lot of time travelling from mother's home to the school than what he would spend while travelling from his father's place to the school is erroneous.**

9. **Lastly, it was contended that it is clear from the counselor's report as well as observations in the impugned order that Arjun desperately seeks for his sister's company. Therefore, since his sister's custody is with her mother and there cannot be an issue on that because she is not willing to be with her father, the welfare of the child would be better served if the child is placed with his mother so that both the children are together. In addition to above, our attention was invited to paragraph 50 of the impugned judgment where it has been observed that the mother exhibited an irresponsible conduct of travelling abroad during peak Covid-19 period by leaving her children in the custody of their father. By highlighting the aforesaid fact, the High Court deemed it appropriate to place the custody of Arjun with his father till the issue is finally settled by a competent court dealing with custody of minor children under the relevant statutes. In this regard it is argued that appellant (i.e., mother) was fully vaccinated and if she had to travel in connection with her job, her conduct cannot be termed irresponsible or against the interest of minor.**

10. ***Per contra*, the learned counsel for the respondent has**

supported the view taken by the High Court and also pressed an application for discharge of visitation rights that were accorded by this Court vide order dated 3rd May, 2024 passed in earlier round of litigation between the parties whereunder the custody of Arjun was placed with the mother from 12 noon on every Saturday till 6.00 p.m. on Sunday. It is the case of the respondent that a minor child cannot be shifted from one home to the other as it has an element of disturbing the psyche of the child which might be detrimental to his overall development. Accordingly, it is prayed that the visitation rights provided to the mother be discharged.

11. **We have considered the rival submissions and have perused the materials available on record.**

12. **It is not in dispute that both parents are working parents and, therefore, it is expected that they cannot always be physically with their children. But this cannot be a ground to place the custody of the child with the one who may be temporarily working from home because it is a matter of common knowledge that to meet individual as well as family aspirations married couples have to work to build a proper home and most importantly to secure better education for**

their ward which is getting costlier day by day. We, therefore, do not subscribe to the view that if one parent is working from home and the other not (i.e., has to visit his office for work) then it has to be inferred that child's interest would be better served if he is placed in the custody of one who does not go to office for work. Likewise, in our view, distance from home to school is not a relevant consideration particularly when both sides reside in National Capital Region and the child is required to travel some distance for better education. Moreover, it hardly matters whether travel time is few minutes less or more.

13. **Similarly, the view taken by the High Court that mother exhibited an irresponsible conduct by travelling abroad during Covid-19 period may not be a relevant consideration particularly when, according to her claim, she was duly vaccinated and such travel was the requirement of her job. Though the claim of the respondent is that such travel was not in connection with her job but to celebrate her vacations.**

14. **Be that as it may, even vacations are important and necessary for a person to maintain a proper frame of mind. Therefore, no adverse inference could have been**

drawn against the appellant on that ground.

15. **However, though we may find that the aforesaid aspects ought not to have weighed with the High Court while determining the custody issue, we should not be oblivious of the fact that Arjun is a male child and is aged above 5 years by now. Moreover, the education of Arjun continues to be as a student at Heritage School and therefore, his education is not disturbed whether he remains in the custody of his father or mother. What is important is that from our interactions with Arjun we noticed that he was not willing to part company of his father. We also took notice of the fact that his father has few elder members at home including Arjun's grandfather who are giving company to the child. In such circumstances, having regard to the fact that the male child is now above five years old and he continues to be in the same school where he was studying earlier and he has no issues with his own father and is not willing to part company of his father, an interference with the order passed by the High Court is not required, particularly in view of the fact that the appellant has visitation rights as directed earlier by this Court vide order dated 3rd May, 2024 passed in SLP**

(Criminal) No.836 of 2024. Further, the High Court has not closed the custody issue rather it gave appellant right to seek custody and pursue remedies under relevant statutes. Consequently, we do not find a good reason to disturb the operative portion of the impugned order. Subject to above, the appeal is dismissed. The application of the respondent seeking discharge of the visitation rights granted vide order dated 3rd May 2024 by this Court in SLP (Criminal) No.836 of 2024 is rejected.

16. **Parties shall bear their own costs.**

17. **Pending application(s), if any, shall stand disposed of.**

……J
[MANOJ MISRA]

……J
[UJJAL BHUYAN]

New Delhi
November 25, 2025

ITEM NO.12 COURT NO.13 SECTION II-B

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

PETITION FOR SPECIAL LEAVE TO APPEAL (CRL.) NO.12458/2024

[Arising out of impugned final judgment and order dated 01-07-2024 in CRR No. 2069/2022 passed by the High Court of Punjab & Haryana at Chandigarh (O & M)]

POONAM WADHWA Petitioner(s)

VERSUS

AJAY WADHWA & ORS. Respondent(s)

[TO BE TAKEN UP IN CHAMBERS AT 2:00 PM]

Date : 25-11-2025 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE MANOJ MISRA
HON'BLE MR. JUSTICE UJJAL BHUYAN

For Petitioner(s) : Ms. Preeti Singh, AOR
Mr. Sunklan Porwal, Adv.

For Respondent(s) : Ms. Tina Garg, AOR
Mr. Anuraj Jain, Adv.
Mr. M.K. Ghosh, Adv.
Ms. Preeti, Adv.

UPON hearing the counsel the Court made the following

O R D E R

1. Leave granted.

2. The appeal is dismissed in terms of the signed order which is placed on the file.

3. Pending application(s), if any, shall stand disposed of.

(KAVITA PAHUJA) (SAPNA BANSAL)
ASTT. REGISTRAR-cum-PS COURT MASTER (NSH)