



Non-Reportable

**IN THE SUPREME COURT OF INDIA
CRIMINAL/CIVIL ORIGINAL JURISDICTION**

Transfer Petition (Crl.) No.361-362 of 2025

Asha Rakhama Panmand

...Petitioner (s)

Versus

Mohammed Rafi Subhan & Ors.

...Respondent (s)

With

Transfer Petition (C) No.1037 of 2025

ORDER

The parties to these Transfer Petitions, joined in matrimony, later dissolved, are in a tough situation, primarily concerning their child with special needs.

2. There was a Memorandum of Settlement dated 01.12.2018, dissolving their marriage which is placed on record, based on which a decree was passed by the Principal Judge, Family Court, Bangalore on 28.01.2019 on the basis of which a decree was drawn up on 05.02.2019, dissolving the marriage by mutual consent. As of now, the petitioner, mother of the child is faced with a Civil Contempt Case No.

377 of 2024 filed by the respondent, father of the child before the High Court of Karnataka at Bengaluru, seeking initiation of contempt proceedings for violation of the visitation rights as granted under the Memorandum of Settlement to the father; the father and the mother having joint custody of the child as per the settlement.

3. The father faced with a Special Case No.5 of 2025 pending before the Fast Track Sessions Court-III, Bangalore Rural, Bangalore, Karnataka; arising out of FIR bearing No.579 of 2024 registered for offences under Sections 323, 506 of the Indian Penal Code, 1860 (IPC) and Sections 8/12 of the Protection of Children from Sexual Offences (POCSO) Act, 2012 (POCSO Act), lodged at Hebbagodi Police Station, Bangalore on 11.09.2024, has approached the High Court of Karnataka at Bangalore with Writ Petition No.29055 of 2024, titled as '*Mohammed Rafi Subhan v. State of Karnataka and Anr.*' for quashing the criminal case.

4. The wife, the petitioner herein seeks transfer of Special Case No.5 of 2025 to the Fast Track Sessions Court at Mumbai and the Writ Petition pending before the High Court

of Karnataka to the High Court of Judicature at Mumbai, Maharashtra.

5. On hearing the arguments in Court, we were of the opinion that we should interact with the parties and also have an interaction with the child. By order dated 13.08.2026, we directed the parties to remain present on 20.08.2026; the petitioner with her child. On 20.08.2026, while the petitioner and her daughter were present in person, the respondent joined the proceedings online from Dubai. We also heard the learned counsel for both the parties and had interactions with the mother and the father. We also interacted extensively with the child, who we thought, though astute in understanding has acute problems in adjustment. Having had extensive interaction with the child, we placed certain options before the parents and gave them time to think over it. We were primarily concerned with the well being of the child, who would have to undergo the trauma of reliving an experience which we are not sure was real or imagined, as of now. The feeling is real in the mind of the child, but we

have our own misgivings of what actually happened, considering the status of the child who has special needs.

6. A continued prosecution will only jeopardise the child's well being and put the parents into unending trauma, to which their families also will be drawn, especially in the context of both the parents having remarried. The petitioner and her husband are now taking care of the petitioner's child while the respondent with his wife has the care of a child in the first marriage of his wife.

7. We hence posted the matter today, when we directed the parties to remain present online, while their Counsel could attend in person. We record with appreciation the conduct of both the learned Counsel whose attempt was only to resolve the situation and not to aggravate it by placing arguments and counter arguments. Their silence at times, was golden and their assistance, valuable, as it helped us to steer the parties to an amicable settlement. On our interactions with the child, extensively as we recorded in the last order, we were of the opinion that no fruitful end will be served by the prosecution under the IPC and the POCSO Act.

However, as we noticed, the alleged incident being imprinted in the child's mind, continuation of visitation rights would also be in detriment of the child's well-being. We can only hope that the seed of misgiving, against her father, implanted in the child's mind does not catch roots and withers away in course of time. But till then any association between them would run contrary to the well being of the child. The contempt case, hence, would not evoke any results and the Writ Petition filed by the respondent to quash the proceedings would be unnecessary in the nature of the orders we intend to pass.

8. We have deliberated on the matter, had interactions with the parents and the child as also the learned counsel and arrived at a decision, which we believe is in the best interest of all concerned in the *lis*, especially the child with special needs. We are also persuaded by the entreaties made by the mother, considering also the fact that the parents belong to different communities. There was a solemn undertaking by the mother, that the child will be brought up by the tenets of the father's religion, which having come to such an end, the

mother expressed anguish, in the child growing up in the mother's household forced to follow a different religion; which again would not be in the best interest of the child. The mother also implored us for a very drastic change, in the name of the biological father being not continued insofar as the child. The child according to her, has apprehensions about the father, as is revealed from what she stated and believes and has now developed close affinity to the step-father. She questions the mother as to why she is not given the name of the father who resides with them and looks after her, as is the case with her friends. We cannot but bow down to the desire expressed by the child, communicated to us through her mother, especially in the peculiar circumstances coming out in this case.

9. We, hence, had the difficult task, which we are duty bound to undertake, of setting aside the terms of the settlement arrived at between the parties while upholding and sustaining only the decree of divorce on mutual consent. It would be in the fitness of things that the mother be permitted to carry out the affairs of the child as she would

desire, even if it goes against the terms of the memorandum of settlement. The mother henceforth will have exclusive custody of the child and would be entitled to make suitable changes in the school records and other records relating to citizenship and identity, so as to align the child with the circumstances in which she is brought up. As a corollary, with the consent of the mother, an informed and educated lady, who too realises the travails if the prosecution is taken forward, we put an end to Special Case No.5 of 2025 pending before the Fast Track Sessions Court-III, Bangalore Rural, Bangalore, Karnataka arising out of FIR bearing No.579 of 2024 registered for offences under Sections 323, 506 of the IPC and Sections 8/12 of the POCSO Act, lodged at Hebbagodi Police Station, Bangalore, and quash the same bringing to a full stop the further proceedings thereunder. The Civil Contempt Case No. 377 of 2024 pending before the High Court of Karnataka at Bengaluru too, as a consequence of our interfering with the terms of the settlement, comes to an end. Writ Petition No.29055 of 2024, titled as '*Mohammed Rafi Subhan v State of Karnataka and Anr.*' pending before the

High Court of Karnataka at Bangalore is also rendered infructuous.

10. We direct the Registry to communicate this order to the Fast Track Court-III, Bangalore Rural, Bangalore, Karnataka and the High Court of Karnataka at Bangalore to bring a closure to the proceedings referred to above.

11. We make it clear that this order passed in the Transfer Petitions is in the special and peculiar facts arising in the case, invoking our jurisdiction under Article 142 of the Constitution of India.

12. Ordered accordingly.

13. The Transfer Petitions are disposed of. Pending application(s), if any, shall stand disposed of.

..... J.
(J. B. PARDIWALA)

..... J.
(K. VINOD CHANDRAN)

**NEW DELHI;
SEPTEMBER 10, 2026.**

ITEM NO.50

COURT NO.6

SECTION II-E

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

Transfer Petition(Criminal) Nos 361-362/2025

ASHA RAKHAMA PANMAND

Petitioner(s)

VERSUS

MOHAMMED RAFI SUBHAN & ORS.

Respondent(s)

[TO BE TAKEN UP IN THE COMMITTEE ROOM]

IA No. 96355/2025 - EX-PARTE STAY

IA No. 96363/2025 - EXEMPTION FROM FILING O.T.

WITH

T.P.(C) No. 1037/2025 (IV-A)

IA No. 93174/2025 - EX-PARTE STAY

Date : 10-09-2026 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE J.B. PARDIWALA

HON'BLE MR. JUSTICE K. VINOD CHANDRAN

For Petitioner(s) : Mr. Sandeep Sudhakar Deshmukh, AOR
Mr. Nishant Sharma, Adv.
Mr. Ankur Savadikar, Adv.
Mr. Kartik Sharma, Adv.

For Respondent(s) : Mr. Syed Abdul Haseeb, AOR

Mr. Kapil Dixit, Adv.
Mr. Atik Rehman, Adv.

Mr. Kunal Vajani, A.A.G.
Mr. Sanchit Garga, AOR
Ms. Diksha Arora, Adv.
Mr. Bhanu Pratap Singh, Adv.
Mr. Vijender Kumar, Adv.
Ms. Oorja Goel, Adv.

UPON hearing the counsel the Court made the following
O R D E R

1. The Registry is directed to communicate this order to the Fast Track Court-III, Bangalore Rural, Bangalore, Karnataka and the High Court of Karnataka at Bangalore to bring a closure to the proceedings mentioned in the signed order.
2. The Transfer Petitions are disposed of in terms of the signed order.
3. Pending application(s), if any, shall stand disposed of.

(CHANDRESH)
ASTT. REGISTRAR-cum-PS

(POOJA SHARMA)
COURT MASTER (NSH)

(Signed order is placed on the file)