2026 INSC 1249

IN THE SUPREME COURT OF INDIA
INHERENT JURISDICTION

CONTEMPT PETITION (C) NO(S). 738 OF 2026
IN
TRANSFER PETITION (CIVIL) NO(S). 235 OF 2025

POORNIMA GUPTA ....PETITIONER(S)

VERSUS

SAURAV GUPTA ....RESPONDENT(S)/ ALLEGED CONTEMNOR(S)

O R D E R

Mehta, J.

1. Heard.

2. Transfer Petition (Civil) No. 235 of 2025 was instituted by the petitioner seeking transfer of Suit No.149 of 2024 titled as *Saurav Gupta vs. Poornima Gupta* pending before the Family Court, Dholpur, Rajasthan to Family Court, East Delhi District Court, Delhi.

3. Mediation was undertaken during the pendency of the said transfer petition and ultimately the

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spouses, i.e., the petitioner and the respondent, arrived at a mutual settlement dated 13th November, 2025, which was recorded in the order dated 12th December, 2025 passed by this Court. In terms of para 3 of the settlement, two children born from the wedlock of the parties, i.e., the daughter Ms. P and the son Master S, aged 11 years and 6 years respectively at that point of time, were agreed to be retained in the custody of the petitioner-mother, whereas the respondent-father was granted visitation rights permitting him to take the children to his parental home at Dholpur, Rajasthan, twice a year for four days.

4. The petitioner did not claim any maintenance from the respondent and only an amount of Rs.8000/- per month was agreed to be paid by the respondent-father towards the educational expenses of the children. It was also agreed that the respondent-father would be under an obligation to pay the premium on the investments made in the name of the children in the Government bonds/schemes.

5. The present contempt petition is filed by the petitioner-mother alleging that the respondent-father

has violated the terms settled between the parties governing visitation rights as granted by this Court vide order dated 12th December, 2025. The relevant paragraphs of the agreement to that extent are quoted hereinbelow for the sake of ready reference:-

> "3. That from this wedlock two children were born namely Pari Gupta (Daughter) aged about 11 years and Shiva Gupta (Son) aged about 6 years. The children are in custody of the petitioner wife, while respondent husband shall be having the visitation rights and to take them to his parental home at Dholpur, Rajasthan twice in a year for four days, each subject to the terms and conditions settled herein under.
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> 5. That it has been agreed between the parties that the respondent /husband shall pay Rs. 8000 per month to the children towards their monthly educational expenses. The said amount of Rs. 8000 shall be paid by respondent husband through E-modes to the petitioner wife and the respondent husband shall continue to pay the said amount till the time the children gainfully employed, or get married, whichever is earlier.
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> 10. That it has also been agreed between the parties that the respondent husband shall not claim ever the custody of the children in any other manner, except in accordance of the terms and conditions agreed between the parties through the present compromise deed."

6. These terms form a part of the order dated 12th December, 2025 of which the contempt is alleged.

The petitioner-mother has instituted the instant contempt petition alleging, inter alia, that on 22nd July, 2026 at about 1:57 p.m., the respondent-father (alleged contemnor), under the garb of exercise of visitation rights went to the Kerala Education Society Senior Secondary School, Mayur Vihar Phase-3 where the minor son Master S was studying and took the child to Rajasthan. Since then, the respondent has retained the custody of the son and has not handed over the custody back to the petitioner-mother in terms of the settlement recorded in this Court's order dated 12th December, 2025. The petitioner-mother has alleged that previously also, the respondent-contemnor had violated the directions in so far as the period of visitation is concerned.

7. The petitioner-mother moved an application dated 26th July, 2026 to the SHO, P.S. Ghazipur, complaining about the illegal and contemptuous act of the respondent-father, but no action was forthcoming thereupon.

8. Being aggrieved, the petitioner-mother served a contempt notice to the respondent-alleged contemnor through her Advocate and thereafter, exchanged

messages with him requesting for return of the child. Despite all the efforts made by the petitioner, the respondent-alleged contemnor continued to retain the custody of the son, whereupon the instant contempt petition came to be filed before this Court.

9. Notice on the contempt petition was issued upon the respondent-alleged contemnor vide order dated 28th September, 2026.

10. On 12th October, 2026, the minor child was presented in the Court by the respondent-alleged contemnor. A brief interaction was undertaken whereafter the parties were permitted to file pleadings.

11. The respondent-alleged contemnor has filed a counter affidavit wherein he has not denied the fact that the custody of the minor son has been retained by him contrary to the terms of the settlement. However, the said act is defended on the premise that the respondent-father and the son share a very close and affectionate bond and that the child has persistently expressed his desire to stay with the father and also resisted all attempts to send him to the petitioner-mother. The minor also allegedly shared with the respondent-father, the details of

physical and mental trauma caused to him by the family of the petitioner-mother. Thus, the respondent-alleged contemnor, while not denying the non-compliance of the terms and conditions of the settlement recorded in the order passed by this Court, has justified his action on the ground that the minor son is refusing to part company with him and that it is in the best interest of the minor that he be kept at the parental home of the father at Dholpur. The respondent-alleged contemnor has also in his pleadings stated that the child is staying comfortably in his company as well as his parents and has been admitted in a school at Dholpur.

12. The matter was taken up in Chambers on 3rd November, 2026 and on that date, we interacted with the child in the presence of counsel for the parties and separately with the parties as well. We find that the mind of the child appears to have been severely tutored against the petitioner-mother as well as his sister. The child was not in the least interested in going back with his mother or even interacting with her. He insisted that he desires to stay with his father. Allegations and counter allegations were

levelled by the parties qua each other's conduct pre and post the initiation of the contempt proceedings.

13. *Prima facie*, on an interaction with the respondent-father and from his mannerism, we feel that he appears to be displaying clear signs of substance abuse.

14. Apparently, seen in the light of the facts noted above, the respondent-father is in clear contempt of this Court's order dated 12th December, 2025 which, in terms of the settlement, placed full custody and guardianship rights of the children exclusively with the mother with limited visitation rights to the father. However, the child has been taken out of the custody of the mother and is retained by the father for nearly four months. There appears to be a conscious attempt by the father to brainwash and poison the mind of the child against his mother as well as sister. We, therefore, consider it unsafe to direct abrupt restoration of the child's custody to the mother, as the same may create unnecessary complications and may also have a permanent scar on the child's psychology.

15. We, therefore, direct the learned Family Court, Dholpur, to forthwith engage the services of a child

counsellor so that appropriate counselling can be provided to the child. The respondent-father shall present the child before the Family Court, Dholpur, for the counselling sessions as and when directed. The Presiding Officer of the Family Court shall ensure that the child counsellor interacts with the child in an influence-free atmosphere. The prime objective of the counsellor shall be to restore the faith and trust of the child in his mother and his sister. We consider this direction necessary because the continued dislocation of the child from the custody of his mother's home would also lead to sibling alienation. The sessions may be held initially twice a week or as may be decided by the counsellor. If the petitioner-mother desires to participate in the counselling sessions, she may approach the Family Court, Dholpur with an appropriate application. Her participation shall be subject to the permission of the counsellor.

16. The respondent-father shall not be permitted to interfere in the counselling process. The counselling sessions shall be arranged in a separate room within the premises of the Family Court at Dholpur. The expenses of the counsellor, as may be determined by

the Family Court, shall be borne by respondent-father.

17. Till such time the report of the counsellor is received, the child may continue to reside at Dholpur.

18. The report of the counsellor shall be presented to this Court in a sealed cover on 22nd January, 2027. On that date, the parties shall remain present in the Court with the child. We further provide that in case, the counsellor comes to a conclusion that the child is ready to be handed back into the guardianship of the mother, a report to this effect may be forwarded by the counsellor through the Family Court for early listing of this matter before this Court.

19. The matter shall be listed on 22nd January, 2027 to be taken up at 1:00 p.m. in Chambers.

.....J.
(VIKRAM NATH)

.....J.
(SANDEEP MEHTA)

.....J.
(APARESH KUMAR SINGH)

NEW DELHI;
NOVEMBER 19, 2026.