

SB v RB (RESIDENCE: FORCED MARRIAGE: CHILDS BEST INTERESTS)
[2008] EWHC 938 (Fam)

Family Division

Sumner J

23 April 2008

Residence – Forced marriage – Mother seeking return of child to her care – Child’s best interests – Practice Guidance for Social Workers

The mother was born in Bangladesh and came to England only after marrying the father, a British citizen; the couple had three children. After the father’s death the mother remarried; her new husband was a Bangladeshi citizen and the family began spending considerable time in Bangladesh. The mother had an additional two children with her second husband. During one of the mother’s periods of residence in England the local authority became concerned about the three eldest children and they were put on the child protection register under the heading of neglect. During one of the family’s stays in Bangladesh the eldest child, then aged 11, was married to a 20-year-old Bangladeshi man. After the ‘marriage’ the mother left the child with the Bangladeshi man, and returned with the other children to England. The Forced Marriage Unit became involved, the child was made a ward of court, and eventually arrangements were made for her to return to the UK. Following a short hearing the child was placed with a paternal aunt and uncle. Some time later the marriage was declared void. A report requested by the court under s 7 of the Children Act 1989 was very positive about the paternal uncle and his wife, who wished to look after the child long term. The child, now 12 years old, wished to live with her mother and expressed a wish to bring the man to whom she had been married to England, but was happy living with her uncle and aunt. The author of the report was concerned that if the child returned to the mother she would be put under pressure to maintain a relationship with the man to whom she had been married. The Cafcass officer expressed concerns about the child’s relationship with her mother, and particularly about the possibility that if she returned to the mother’s care she would revert to caring for the mother’s younger children. The mother wanted the child to return to her care, but did not actively oppose an order for her to reside with the paternal uncle.

Held – making a residence order in the paternal uncle’s favour – the child had had a deeply troubling upbringing: she had been given a caring role in the family far beyond her years at the cost of both her education and her upbringing; she had been neglected by a mother unable to cope; and she had been married at the age of 11 to a man at least 8 years older than herself. The reports by the social workers advising that a return to the mother’s care would be potentially dangerous, and put at risk the progress the child had made since her return to the UK, had gone unchallenged. Remaining with the paternal uncle and aunt, who had shown themselves devoted to her, was the best prospect for her future, both emotionally and psychologically (see paras [20], [22], [24]).

Per curiam: the Practice Guidance for Social Workers in relation to young and vulnerable people facing forced marriage, the product of the combined efforts of five different Ministries, had much to commend it (see para [25]).

Teertha Gupta for the applicant

Richard Beddoe for the first respondent

The second and third respondents appeared in person

SUMNER J:

Introduction

[1] On 18 March 2008 there was a short hearing in this matter. It concerned SB, who was born on 11 June 1995 and is now 12 years old. Her parents married in Bangladesh in 1993. Her mother, RB, came to the UK in 1994 to join her father, RM, a British national of Bangladesh origin. He died there in April 2001. SB was brought up by her mother together with her sister, H, who is 8 and brother, A, who is 6 years old.

[2] The mother remarried in 2002 in Bangladesh where she lived with her second husband, M. She had two further daughters, S, now 4, and AR who is 9 months old. She returned to the UK in August 2003 subsequently living at a number of addresses in London. She went back to Bangladesh in April 2006 with her children to visit M.

[3] Whilst there and under pressure she says from M, who threatened to stop her returning to the UK, she agreed to marry SB, then aged 11, to SM, a man about 20 years, old in December 2006. This was acceptable she says in her culture. She brought her other children back to the UK in early 2007, leaving SB behind with SM.

[4] SB was made a ward of court by Bennett J on 29 March 2007. This was at the instigation of her litigation friend, Ms Anne-Marie Hutchinson, and the Forced Marriage Unit of the Foreign Office and Home Office. Having been made a ward of court the Forced Marriage Unit made arrangements for her sensitive return to this jurisdiction. This occurred on 19 April and, following a short hearing, SB went to live with another paternal uncle, AM, in Croydon together with his wife, EK, and their baby daughter. AM was later made a party to the proceedings. Due to the mother's inability to recognise the implications of her actions, and the fact that to return SB to her mother's care would be to place her back into the very circumstances that led to her marriage in the first place, it was clearly inappropriate to return her.

[5] There was a series of interlocutory hearings. The alleged marriage was declared void ab initio by Ryder J due to SB's extremely young age: she was only 11 years old at the time. At a hearing before me on 30 July 2007, Cafcass were made SB's guardian.

Hearing of 18 March 2008

[6] Mr Gupta appeared for SB, Mr Beddoe for the mother, and AM in person representing himself and his wife, EK. The mother was not present. She did not dispute the facts. She wanted her daughter to return to her care. She did not consent but did not actively oppose an order being made for SB to reside with AM who has looked after her since April 2007.

[7] I was asked by Mr Gupta to give a short judgment. Though unusual to record events when the hearing was both short and not actively disputed, I agreed to do so. This was principally for the benefit of SB as she comes to terms with events. It also explains my reasons for approving the plans for SB on the basis of the statements and reports before me, no witnesses being called.

History of reports

[8] There had been concerns about the mother's care in 2004 and 2005. This was at a time when the mother was living both in Bangladesh and London. It led to the three oldest children being put on the child protection register in June 2005 under the heading of neglect. It appears that neither this nor the subsequent local authority reports were disputed. I therefore note their conclusions.

[9] On 8 May 2007 following SB's return to the UK after her marriage, the court requested a s 7 report from the London Borough of Croydon where SB was living. It is dated 26 June 2007 and was prepared by a senior social worker, Ms Nursigadoo.

[10] The mother told her that that it was wrong for SB to marry but she could not say why. She denied that she and her husband had received a large sum of money by way of dowry as AM asserted, and with which SB also agreed. The report was positive about AM and his wife and their wish to look after SB long term.

[11] SB expressed a wish to live with her mother and bring her husband to England. She was happy living with her uncle and aunt.

[12] The mother was considered to have low self-esteem. She was a vulnerable person. She appeared dependent upon her husband. Her lack of empowerment and emotional dependence had restricted her ability to protect SB. She had upset SB, telling her to inform the court that she wanted to return to live with her mother.

[13] Ms Nursigadoo felt that if SB returned to her mother she would be pressurised into maintaining a relationship with her husband by telephone contact. The mother wanted SB to return, not so much because she missed her, but she worried about her role as a mother in her community. SB, for her part, had no insight into the abuse that was committed against her.

[14] Mrs Odze from the Cafcass High Court team produced a helpful report of 7 March 2008. By then SB had had two supervised meetings with her mother and siblings in the area where they now live. She was attending weekly counselling sessions.

[15] The mother accepted that she had made a mistake in agreeing to the marriage of SB. She wanted her home. SB missed her mother and siblings. She said no one had explained to her why she was not having more contact. It seemed that she blamed her stepfather, M, which made remaining with her uncle and his wife more difficult. She was not mature enough to understand what was in her long-term best interests nor could she understand why her mother had failed her.

[16] If she were returned to her mother it would be to the circumstances which led to her being unlawfully married off and where she had been a carer within the family. She might well be put on the child protection register, and the therapy she was receiving and the progress she was making would not continue.

[17] Also, concerns were expressed about her stepfather being granted a visa to join the mother in the UK. SB might miss out on any prospect of marrying a man of her choice. She had divided loyalties over contact.

[18] Mrs Odze did not consider that the mother was capable of meeting her needs and in particular her emotional needs. The mother had sought to promote contact between SB and the man with whom her marriage had been

annulled. SB might well revert to caring for the younger children and her education could again be jeopardised as it was earlier. She had made huge progress in her present placement.

[19] Her uncle and aunt, AM and EK, had made a very high commitment to her at considerable personal cost. In particular, her uncle had appreciated that contact with her mother and siblings was required despite his personal feelings. She recommended a residence order in their favour.

Conclusions

[20] SB has had a deeply troubled upbringing. There was the death of her father, which has yet to be explained. There is evidence that she was given a caring role in the family far beyond her years at the cost of both her education and her upbringing. There was neglect from a mother who was unable to cope. She was married at the age of 11 in Bangladesh to a man at least 8 years older than herself for whom she may retain feelings. She was left there to fend for herself.

[21] When she was returned to the UK, it was to her paternal uncle and aunt. Her visits to her mother are understandably supervised at this time. She misses and no doubt worries about her mother and her siblings and half-siblings.

[22] For well established emotional reasons set out in two reports to which I have referred, it would at this time be potentially disastrous for her to return to her mother. It would put at risk the high degree of care that she has received and the progress that she has achieved.

[23] Despite that quality of care, she has divided loyalties given her worries about her mother's state. There are the added problems which will be created should SM now come to the UK.

[24] She has the great advantage of remaining within her family with relations who have demonstrated a high degree of care. They have also shown themselves devoted to her, emotionally and financially. On the unchallenged reports I have read, I am satisfied that this is the best prospect for SB's future at this time, both emotionally and psychologically, if she is successfully to address her disadvantaged upbringing.

[25] Finally I have seen the Practice Guidance for Social Workers in relation to young and vulnerable people facing forced marriage. It is produced by the combined efforts of five different ministries and has much to commend it.

Order accordingly.

Solicitors: *Dawson Cornwell* for the applicant
Hills for the respondent

PHILIPPA JOHNSON
Law Reporter