

Judgments

FAMILY DIVISION



Neutral Citation Number: [2010] EWHC 3282 (Fam)

Case No: LU09F03718

IN THE HIGH COURT OF JUSTICE

FAMILY DIVISION

Royal Courts of Justice

Strand, London, WC2A 2LL

Date: 14/12/2010

Before :

SIR NICHOLAS WALL THE PRESIDENT OF THE FAMILY DIVISION

Plaintiffs A Chief Constable
AA
and
Defendants YK and 5 others

Michael Gration (instructed by **A Chief Constable**) for the **1st Plaintiff**

Teertha Gupta (instructed by **Dawson Cornwall**) for the **2nd Defendant**

The 1st and 2nd Defendants appeared in person

Ayesha Hasan (instructed by **Franklins**) for the **3rd Defendant**

Ami Bartholomew (instructed by **Nobles**) for the **4th Defendant**

Jennifer Barker (instructed by **Smith Brown and Barrow**) for the **5th Defendant**

The 6th Defendant appeared in person

Hearing dates: 30 November 2010

Approved Judgment

I direct that pursuant to CPR PD 39A para 6.1 no official shorthand note shall be taken of this Judgment and that copies of this version as handed down may be treated as authentic.

Sir Nicholas Wall P :

1. This is a postscript to my judgment in the case of **A Chief Constable v A and others** [2010] EWHC (Fam) 2438 which I handed down on 6 October 2010. For ease of reference, I propose to repeat paragraph 108 of that judgment, which reads: -

I am also influenced by the fact that A is 19, and thus an adult. The principal order which I made in July 2010 was that the papers should be disclosed to an expert witness from one of the organisations which specialises in forced marriage and "honour violence" cases, with a view to that expert meeting A and discussing A's wishes and feelings with her. If such an expert is satisfied that A genuinely and independently wishes the order to be discharged, I will, of course listen to that evidence and any cross-examination of that witness by the police very carefully. That seems to me the way forward in the instant case.

2. As a result of my order, A was interviewed by the Executive Director of the Henna Foundation which, as its website states, is a registered charity that offers "advice, support, sign posting and advocacy to vulnerable young people and families that are faced with social pressures, isolation and the difficulties and challenges of family and community life." A significant percentage of the charity's work involves supporting

and seeking assistance to protect victims faced with issues around forced marriage, 'honour' related abuse, violence and crime.

3. Following her discussions with the Henna Foundation, A specifically expressed her wish to regularise her marriage to B, the fourth respondent in the proceedings. As a result, I was able to approve a consent order, which brought the proceedings to an end. A suitably anonymised version of the order which I made is attached to this judgment. In it, I have deliberately maintained the parties' anonymity, and have used the abbreviations contained in paragraph 2 of my substantive judgment. Thus the applicant is a Chief Constable; "A" is the person to be protected; C, is A's former boyfriend. A's parents and cousin are designated as such; B is A's husband and B's father is so designated.

4. The consent order is, I think, self-explanatory. It will be noted from it that the injunctive relief is to remain in place for a period of two years.

5. The principal reason I am publishing this addendum is the hope that what happened in this case can be replicated in other cases. Under section 1 of the Forced Marriage (Civil Protection) Act 2007 (now Section 63A (2) of the Family Law Act 1996 and set out in paragraph 14 of my main judgment) the court is required to have regard to "the need to secure the health, safety and well-being of the persona to be protected". Furthermore, in ascertaining that person's well-being, the court: -

must, in particular, have such regard to the person's wishes and feelings (so far as they are reasonably ascertainable) as the court considers appropriate in the light of the person's age and understanding.

6. Nobody should underestimate the pressures which may, in certain circumstances, be placed upon such a person. It is therefore essential, in my judgment, if the court is to make a realistic assessment pursuant to section 63A (2) that the person to be protected is seen by someone who is aware of those pressures and is, in short, an expert in the field. It is also desirable, as here, that the person to be protected is separately and independently represented.

7. Having read the report in the instant case, I have no doubt that its author qualifies as an expert in the field. I was thus able to fulfill my obligations under section 63 and make the consent order. My hope is that the early instruction of such an expert in other cases may assist their resolution. The report from such an expert will, in any event, be of very great use to the court.

8. I would also like to add, now that I am parting with the case, that in my judgment the particular police force engaged in this case has not only acted appropriately in taking proceedings, but has done a public service by arguing the matter as it has. The result has been the intervention of the Attorney-General and, I hope, a clarification of the manner in which these difficult cases fall to be addressed. I am thus extremely grateful to the police, and indeed to all counsel for their considerable assistance.