

Re KR (A Minor) (Abduction : Forcible Removal) (1999)

(1999) 4 All ER 954 : (1999) 2 FLR 542 : Times, June 16, 1999

18/05/1999

Barristers

Henry Setright KC

Court

Family Division

Summary

Child abduction could still occur where the child was nearly an adult and the abductors were the parents. In those circumstances, the court could make the child a ward of court to secure her return to the country.

Facts

Wardship proceedings by a sister ('P') in respect of her younger sister ('K'). The family concerned were a Sikh family. The mother and father were born in India, their children born and brought up in England. All the family were of British nationality. P had reached majority and had left home in circumstances disapproved of by her parents. K ran away from home when she was 16 years old and attempted to reunite herself with her sister P. The father reported K as a missing person and alleged that P had kidnapped her. The police returned K to her parents. P continued to enlist assistance to stop her parents from removing K to India. The police without success tried to speak to K on her own. The police alerted the parents that they knew of impending plans to remove K to India. The parents then took K to India by a different route than that which the police had knowledge of and left K in the custody of a relative in India. K wrote to P asking for help claiming that she was being kept in conditions akin to a prison and was suicidal. K's teacher gave evidence that K would not have gone voluntarily to India. The parents maintained that it had been K's wish to visit India, and that there was no element of duress involved. With consent from the parties the judge in the instant proceedings contacted the Foreign and Commonwealth Office who arranged a confidential interview of K by the High Commission in New Delhi to establish K's wishes. When the High Commission representative went to collect K they were told that she had left that address "voluntarily". Orders were given to involve the Indian Police Force in the search for K. Interpol became involved. It was found that K had been moved to her grandparents address in India but had moved on from there before it had been visited by the police. The parents appeared in court and expressed concern for K's disappearance they requested an order for K's return to England and also requested that they should be given back their own passports so they could go to India and search for K. That application was denied. The father sent his son to India to find K. On her return to England K gave evidence that her brother only took her to the High Commission on the understanding that she would tell

them that she was in India of her own free will.

Held

HELD: (1) K had been made a ward of court to enable the involvement of the overseas authorities in securing her return to the UK. The wardship continued throughout the remainder of her minority and were then replaced by injunctions supported by powers of arrest for her protection. (2) The parents had played a double deception game with the court, by informing the court that they wished K should have the opportunity of expressing herself freely to the High Commission and at the same time master-minding her hiding in India. The father had intended his son to keep K hidden in India until she was eighteen and no longer the subject of the instant proceedings. (3) The courts would not permit what was at best the exploitation of an individual and may in the worst case amount to outright trafficking for financial consideration. The voice of a young person in so personal a context as opposition to an arranged or enforced marriage will prevail. (4) In future cases where there was no-one in a position to take wardship proceedings the local authority should consider whether the threat of removal abroad with a view to marriage constituted likely significant harm to justify care proceedings.

Permission

Lawtel 