

IN THE FAMILY JUSTICE COURTS OF THE REPUBLIC OF SINGAPORE

[2022] SGHCF 19

District Court Appeal (Family Division) No 139 of 2021
(Summonses Nos 62 and 131 of 2022)

Between

WAA

... Appellant

And

VZZ

... Respondent

Divorce (Transferred) No 2116 of 2019
(Summons No 437 of 2022)

Between

VZZ

... Plaintiff

And

WAA

... Defendant

JUDGMENT

[Family Law — Custody — Access]

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WAA
v
VZZ and another matter

[2022] SGHCF 19

General Division of the High Court (Family Division) — District Court
Appeal No 139 of 2021 (Summonses Nos 62 and 131 of 2022) and Divorce
(Transferred) No 2116 of 2019 (Summons No 437 of 2022)
Choo Han Teck J
28 April, 20 May and 18 July 2022

29 July 2022

Judgment reserved

Choo Han Teck J:

1 The parties were married on 5 February 2012. Interim Judgment was granted on 11 January 2021. The parties have a daughter, born in April 2015, and a son, born in March 2017. On 18 October 2021, the District Judge (the “DJ”) gave the parties joint custody of the children, with care and control to the Mother and access to the Father (“AM Orders”).

2 The Father said that the Mother had denied him all forms of access since 24 January 2022. The Mother said that she denied him access because he had been violent and abusive to the children, and they were afraid to meet him. The Mother said that there were three incidents where the Father had been violent:

- (a) in December 2021 or early January 2022, the Father brought the children and their cousin to the Adam Food Centre and had a violent altercation with the hawkers (“Adam Food Centre Incident”);
- (b) on 23 January 2022, the Father and his family members abused the daughter during the weekend access. The Mother said that the daughter was slapped and punched in the face, kicked in the abdominal area, and thrown against the gate of the front door multiple times. She lodged a police report on 24 January 2022 (“the 1st Police Report”) and brought the daughter to National University Hospital (“NUH”); and
- (c) on 7 February 2022, the Mother lodged another police report (“the 2nd Police Report”) saying that the Father had also abused the son.

3 The Father denied all the allegations against him, claiming that the Mother had concocted these allegations so as to deny him access to the children. In relation to the Adam Food Centre Incident, the Father said that he had requested for the First Information Report (“FIR”) from the police but was informed that there was no FIR for the incident, which suggests that the incident did not occur. In relation to the 1st Police Report and 2nd Police Report, he said that the police has confirmed that no action will be taken against him or his family members. I should say at once that to say a violent altercation had occurred when there was no evidence of violence is doing violence to the language. An altercation is just a quarrel.

4 In HCF/SUM 62/2022 (“SUM 62”), the Father sought an order for the court to interview the children and for an evaluation report and Divorce Support Specialist Agency (“DSSA”) report of the children. The Father also sought to adduce the following evidence on appeal:

- (a) counsellor's report dated 25 February 2022 from Promises Healthcare Pte Ltd;
- (b) documents relating to the Father's part-time studies;
- (c) police reports made after 18 October 2021;
- (d) letters from the police;
- (e) WhatsApp messages between the parties after 18 October 2021;
- (f) correspondence to and from court;
- (g) significant events which occurred after 18 October 2021;
- (h) summons for make-up access and the documents filed therein;
- (i) a video of the daughter dancing at the time of the alleged abuse;
and
- (j) further evidence and developments that would be relevant and of assistance to the court at the appeal hearing.

5 I interviewed the children on 5 May 2022, and I am of the view that the children are well-adjusted and, from their accounts, seemed to be comfortable with the Father. There is no need to subject the children to further evaluation or DSSA reports. In relation to the further evidence that the Father seeks to adduce, the Mother did not object to items (c), (d), (e), (f), and (g) but objected to the remaining items:

- (a) As to (a), the Mother said that the Father had sent the son to counselling and obtained the counsellor's report without her knowledge or consent. I agree that the Father ought to have sought leave from the

court before sending the son to counselling. Accordingly, I decline to admit the counsellor's report in evidence.

(b) As to item (b), the Mother said that documents relating to the Father's part-time studies were available before the AM Orders were made, and ought to have been adduced in the proceedings below. The Father agreed but said that he did not expect the DJ to consider his part-time studies relevant in deciding on care and control. I agree that the documents should have been adduced at the ancillary hearing. In any event, the details of the Father's part-time studies would not be material for this appeal. Therefore, I dismissed the Father's application to adduce evidence on his part-time studies.

(c) As to item (h), there was no objection from the Mother. She said that the matter would be subsumed under item (g) because the issue of make-up access constitutes "significant events which occurred after 18 October 2021". Therefore, I allowed the Father's application to adduce further evidence on this point.

(d) As to item (i), the Mother said that the Father breached Clause 4 of the AM Orders by taking video recordings of the children. The Father sought to adduce the video of the daughter dancing to show that he did not abuse his daughter. From my interview with the children and the letters from the police, I do not require the video recordings and I dismissed the Father's application on this point.

(e) As to item (j), the Mother said that the catch-all provision will give the Father a free rein to adduce whatever evidence he believes to be "relevant and of assistance" to the court. The Father said that there may be further developments on existing issues that may be relevant for

the court. I am of the view that even if there were further developments, the Father should not be granted a *carte blanche* order to adduce evidence. He must follow the proper procedure to adduce any further evidence.

6 For the aforementioned reasons, I allowed the Father's application to adduce further evidence on items (c), (d), (e), (f), (g), and (h) but dismissed the Father's application to adduce further evidence on items (a), (b), (i) and (j). There will be liberty to the Father to apply if there are any further developments on existing issues that may be relevant for this court.

7 In HCF/SUM 131/2022 ("SUM 131"), the Father sought:

- (a) leave to issue subpoenas to several police officers to testify as witnesses and to produce the FIR of the Adam Food Centre Incident;
- (b) leave to issue subpoenas to NUH to release the daughter's medical report;
- (c) leave for the parties to give oral testimony at the appeal hearing;
- (d) a judicial interview of the children's cousin who was present at the alleged Adam Food Centre Incident; and
- (e) leave for a psychological evaluation of the Mother and the daughter.

8 The evidence before me is sufficient for me to determine whether the alleged incidents had been proved. The children did not show any real aversion to the Father, and the police are taking no further action against the Father and his family. I am satisfied that the alleged incidents either did not occur or were

exaggerated by the Mother. It is not necessary for the Father to subpoena the police officers and NUH to obtain further evidence on this point. In any event, I find that the legal bases for the Father's applications are questionable. Therefore, I dismissed the Father's application in SUM 131.

9 The Father also sought make-up access in FC/SUM 437/2022 ("SUM 437"). The Father said the Mother enrolled the daughter in ballet lessons on Friday evenings and Saturday mornings which takes up his access time. He also said that he was denied phone and video access on the public holidays of Chinese New Year and that the Mother only allowed him to speak to the children near their bedtime when the children were sleepy which limited his quality time with the children. He also said that the Mother had denied him school holiday access in 2021 because the Mother insisted that the school holiday access did not start until 2023. Lastly, he said that he was denied him all forms of access from 24 January 2022, and even after my orders on 1 June 2022 for current access arrangements to continue, the Mother still denied him access.

10 The Mother said that the Father was aware that the daughter has been attending ballet lessons and piano lessons since they were listed as part of the daughter's monthly expenses. The times of her lessons can be found in the invoices. The Mother said that she had explained the children's daily schedule to the Father and requested that the Father call the children from 8.00pm to 9.00pm. The Mother admitted that she denied the Father's school holiday access but explained that she misunderstood the AM Orders to mean that school holiday access would start in 2023. The Mother also admitted that she denied the Father all forms of access from 24 January 2022 but explained that it was because of the ongoing investigation of the Father's alleged abuse of the children.

11 I agree with the Father that the Mother had wrongfully denied him access, including the school holidays. However, I am not minded to grant make-up access because I think it better that the parties should start on a clean slate from the date of this decision. The Father said that even after my orders on 1 June 2022 for the current access arrangements to continue, the Mother continued to deny him access on 1 June 2022 and 3 June 2022. I should warn the Mother that should she continue to disobey court orders and deny the Father access to the children after this decision, I may reverse the AM Orders and grant care and control of the children to the Father instead.

12 For the aforementioned reasons, I allowed the Father's application in SUM 62 in part and dismissed SUM 131 and SUM 437. No orders were made as to costs. My judgment on the Father's appeal in HCF/DCA 139/2021 will be issued separately.

- Sgd -
Choo Han Teck
Judge of the High Court

Seenivasan Lalita and Lim Ying Ying (Virginia Quek Lalita &
Partners) for the appellant;
Rachel Hui Min De Silva and Chow Hai Man (Tan Rajah & Cheah)
for the respondent.
