

This judgment was delivered in private. The judge has given leave for this version of the judgment to be published on condition that (irrespective of what is contained in the judgment) in any published version of the judgment the anonymity of the children and members of their family must be strictly preserved. All persons, including representatives of the media, must ensure that this condition is strictly complied with. Failure to do so will be a contempt of court.

Neutral Citation Number: [2020] EWFC 109

IN THE FAMILY COURT

B e f o r e :

MR JUSTICE WILLIAMS

Between:

G Local Authority

- and -

SC Mother

- and -

FL Father

- and -

CL

Applicant

1st Respondent

2nd Respondent

3rd Respondent

**Mr Martin Downs (instructed by Venters Solicitors on behalf of G Local Authority) for
the Applicant**

Ms Alison Moore (instructed by Burke Niazi Solicitors) for the 1st Respondent

Ms Rebekah Wilson (instructed by Goodman Ray Solicitors) for the 2nd Respondent

Ms Diane McBrinn (instructed by Spearpoint Franks Solicitors) for the 3rd Respondent

Hearing dates: 23 October and 2, 3, 4, 5 & 6 November 2020

APPROVED JUDGMENT

WILLIAMS J:

1. The Court gave Judgment at the conclusion of a fact-finding hearing held on 23 October and 2, 3, 4, 5 & 6 November 2020
2. This case concerns the welfare of a young girl – who was one year’s of age at the time of the hearing. Both her parents are respondents to the proceedings – as is the girl herself, by way of her children’s guardian. The parents are of south Asian heritage.
3. It was agreed that while the criteria for the publication of Judgments was made out, the facts of this case are unusual, the background is in the public domain and the parents have had a high public profile in their own community. For those reasons the Court has concluded that it would not be possible to publish even an anonymised version of the Judgment without allowing jigsaw identification of the child. For that reason the Court has used its discretion to publish a summary of the Judgment instead to avoid jigsaw identification.

Background

4. In the summer of 2019 the mother was living with the father; she reported domestic abuse and violence and returned to her family home, reporting the abuse to police and social services. This included allegations of coercive and controlling behaviour and physical violence. The mother was then about 4 months pregnant.
5. After leaving the father the mother maintained that she was no longer in a relationship with the father and was having no contact with him and did not wish him to be part of the child’s life. Following the child’s birth in November suspicions were raised that the father had visited the mother in hospital and stayed overnight. In November, the mother asked nurses to contact security and police as the father was at the hospital and in December he was arrested for stalking. Later the mother disclosed that she had been in contact with the father for the previous four months and that he had been visiting her and had been physically and sexually abusing her. The mother and child moved into accommodation following the child’s discharge from hospital.
6. However, in January 2020, the mother disappeared with the child. In the light of the relevant history, the Local Authority made an application for an EPO, Recovery Order and an Interim Care Order for the child – which was granted.
7. The mother father and child were subsequently located by the Police. The mother and child were found on the balcony of the premises in which they were hiding on the 22nd floor in cold and wet conditions. The child was taken into police protection.

8. The mother and child were subsequently placed in a mother and baby unit but the assessment of the unit was unfavourable to the mother and child remaining together. This was based on the units concerned that the mother had not been frank with them about her involvement with the father and ongoing concerns that she remained either in a relationship with him or that he might resume such a relationship.
9. The matter was listed for a fact-finding hearing. The Court had the benefit of a schedule of allegations – many relying on allegations of abuse by the father against the mother – however, on the eve of the hearing, the mother asserted that all of the allegations that she had made against the father were fabricated under threat by unidentified third parties. The father maintained his earlier position that he denied any significant allegations of abuse. The local authority and the Children’s Guardian took the position that the mother’s initial allegations represented the truth and that the threshold based on those allegations was established to its fullest extent. The father supported the mother’s position that the court should reject the allegations and that the child should remain with the mother.
10. The Court has concluded that the mother’s allegations are, in their essential elements true. She is plainly the victim of domestic abuse of a serious form and that must have had a psychological impact on her in terms of her ability to withstand pressure from the father and in terms of a reliance that she may have upon him.
11. The Court said the following:

“Whether there is more to it than that and whether she feels some guilt associated with anything she has done I do not know. Only the mother truly knows why she has behaved as she has and even, she may not fully understand. She will at least know what she has and hasn’t done which might bear upon the answer to that question. She is clearly a victim of domestic abuse. There is nothing in her history which would point to her having been an accomplished manipulator and deceiver of authorities; rather prior to her involvement with the father what I have read of her suggests that she was an intelligent albeit perhaps somewhat rebellious daughter of a traditional and respectable family. How she has come to her current position is difficult to explain and I am unable to reach any conclusions on it beyond those I have already.”
12. The Court added:

“It is clear in this case that the impact of the father's coercive and controlling behaviour upon the mother has the potential to be extremely serious. Secretly recording sexual activity or monitoring her behaviour, monitoring her movements, lying to her about his relationships with other individuals, treating her without respect or indeed with contempt, intimidating her by threatening to expose her or her family by publishing sensitive material are all corrosive of her as an individual, her ability to provide optimal care to the child and thus harmful to a child's health and development. To the extent that they might be observed by the child as she grows, they would undermine her sense of the autonomy of her mother and perhaps of women and of the nature of intimate relationships. This would be clearly harmful. To the extent that she might witness direct violence or intimidation this would clearly carry with it the risk of emotional harm and might expose her to harm directly if she were to intervene in some shape or form. Finally were the mother to respond impulsively to some aspect of the father's behaviour as she did in February 2019 she might either harm herself directly with consequential

harm to the child or might engage in behaviour which in itself exposes the child to a direct risk of harm as occurred on 27 January 2020 when the child was handed over 22nd floor balcony and remained outside for five hours with the mother on a cold and wet night when she was but two months of age. All of this then falls within the meaning of harm and in my view highly significant harm.”

Conclusion

13. The Court was satisfied that the local authority has established their case on the balance of probabilities and that the threshold was established in the terms of the Appendix below.
14. The Court authorised the move of the child to the maternal aunt – who has already been the subject of a positive special guardianship assessment, In accordance with guidance, the matter will be relisted in 2021 after the child has been with the maternal aunt for a period of months in order to enable me to assess the medium to long term welfare of this little girl.

Appendix

Introduction

1. This concerns the welfare of CL
2. The relevant date is - January 2020 when G LA applied for an Emergency Protection Order.
3. The 1st Respondent is CL’s mother, SC
4. The 2nd respondent is the child’s father, FL
5. It is more likely than not that at the relevant date CL was at risk of significant harm namely: physical and emotional abuse.
6. The risk of physical harm comes from the danger posed to CL in being caught up in a violent incident between the parents or because of CL being placed in physical danger because of the mother’s poor decision making and the 1st Respondent’s inability to protect CL. The mother loves CL and would not deliberately seek to cause CL physical harm.

Findings of harm

7. The relationship between the 1st and 2nd Respondents from May 2018 was abusive and was characterised by coercive and controlling behaviour by the 2nd Respondent including
 - (i) Controlling her social life – including her contact with her family
 - (ii) Controlling her finances
 - (iii) Monitoring her phone and maintaining surveillance of her movements including with the intention to use information obtained thereby to control her,
 - (iv) Monitoring and seeking to control the 1st Respondent’s movements

- (v) Recording their sex on occasion non-consensually with the threat that this would be used against the first respondent
- (vi) aggression
- (vii) physical assault of the 1st Respondent – including strangulation
- (viii) pressurising the 1st Respondent to have sex with the 2nd Respondent
- (ix) threats to go after her family and well as the 1st Respondent if she were to ever go against him

8. The dysfunctional relationship caused the mother anxiety and stress.
9. From June 2019, the 1st Respondent was offered significant support- including with separating from 2nd Respondent and maintaining that separation but the 1st Respondent lied about having separated from him, lied in the course of interventions designed to protect her – negating the effect of the same. The 1st Respondent undermined all protective work and safety plans designed to protect her and her child. The 2nd Respondent conspired with the 1st Respondent to undermine all protective work and safety plans designed to protect CL.
10. The 1st Respondent maintained physical contact with the 2nd Respondent until 27th January 2020 when the 2nd Respondent was remanded in custody.
11. In 2020 up until the applicable date, the 1st Respondent had sought to avoid child protection authorities including by considering leaving the country with CL
12. The Respondent mother absconded with CL to be with the 2nd Respondent neglecting CL's physical and emotional needs.