

PLAGIARISM SCAN REPORT

Words 913 Date April 30,2021

Characters 5347 Excluded URL

5%

Plagiarism

95%

Unique

2

Plagiarized
Sentences

36

Unique Sentences

Content Checked For Plagiarism

GOHAR BEGUM V. SUGGI ALIAS NAZMA BEGUM & ors.

(Unmarried mother is entitled to the custody of her daughter, if it serves in the best interest of the child.)

Bench: Justice A.K. Sarkar, Justice Syed Jaffar Imam, and Justice K.N. Wanchoo

Appellant: Gohar Begum

Respondent: Suggi Alias Nazma Begum & ors.

Citation: 1960 AIR SC 93

Issues:

1. Whether husband or father holds the natural guardianship of the minor ill-conceived child under the Muslim law?
2. Was the child unlawfully detained?
3. Who was qualified for the custody of the child?

Facts of the Case:

1. This case deals with the guardianship of the father if there should arise a case of occurrence of an ill-conceived child.
2. The appellant is the mother of an ill-conceived child who has filed an application under Section 491 of Criminal Procedure Code to transfer the custody of the child from her husband to her.
3. Illegitimacy of a child is a significant issue in Muslim law and prompts a few legitimate questions as in this case.

Appellant's Contention:

1. The appellant made her application under s. 491 of the Code of Criminal Procedure on April 18, 1958. She stated that the respondent would remove Anjum from Pakistan any day and there was already a visa available for Anjum for this purpose. She also stated that insight into the relationship between the parties she had not taken the matter earlier to court.
2. The appellant contended that on the date of the application the respondent was in Pakistan. However, she had not taken the child Anjum with her but had left her in her flat at Bombay in charge of her cousin Suggi and a maid, Rozi Bhangeria.
3. The appellant stated that the respondent had asked her sister Bibi Banoo and her husband Mahomed Yakub Munshi to look after the child.
4. The appellant made these four persons the respondents to her application. Later, the respondent's arrival back in Bombay, she has made a party to the application.

Respondent's Contention:

1. The respondent opposed the application rejecting the correctness of some of the allegations made by the petition in the appellant. She refused that Trivedi is not the father of the child Anjum and said that the father was a Shia Moslem called Samin Naqui. She claimed that the appellant's mother had given the appellant to her to: bring her up at very young age, she had not the means to do so herself and since then the appellant had been living along with her and left her flat in company with Trivedi only during her temporary absence in Pakistan in 1956.
2. The respondent also refused that she didn't make the appellant live in the keeping of any person as alleged by recent. She argued that she had intended that the appellant would marry and live a clean and respectable life but others have influenced and operated upon her and she went to live with Trivedi as his mistress. She refused that she had prevented the appellant access to the child Anjum as the latter stated.
3. The respondent argued that she was looking after the child Anjum with great care and solicitude, and had put her in a good school and kept a special maid for her. She also said that she was rich and had enough to seem after the child

well. She contended that it had been not within the interest of the kid to measure with the appellant because she was living within the keeping of a person who might turn her out and she or he would then need to seek the protection of another man.

4. The respondent said that she had no child of her own and was keen on Anjum whom she had been treating as her child. The Judges of the High court observed that this case has been raised various controversial questions especially on the paternity of the child, on whether the respondent had made the appellant sleep in the keeping of various persons, and also on whether she had prevented the appellant from having access to the child.

Judgment:

Here the court expressed, that the woman or the wife can be a natural guardian just to the ill-conceived child. It outfitted that in the case of an ill-conceived child the conditions are not quite the same as the legitimate child, here even the woman or the wife can be a natural guardian to the ill-conceived child, and non-transfer of custody of such child will certainly amount to illicit detention of the child under Section 491 of Criminal Procedure Code.

Relevant Paragraphs

1. Under Muslim Law the mother of an ill-conceived baby child is qualified for its custody. The refusal to reestablish such a child to the guardianship of its mother would bring about an illegal detention of the child inside the significance of S. 491 of the Criminal Procedure Code. A question with regards to the paternity of the child is insignificant to the purpose of the application.

2. Before making the request for the authority of the child the court is called upon to think about its welfare. The way that an individual has a remedy under the Guardian and Wards Act, is no justification for denying him the remedy under s. 491 Of the Criminal Procedure Code.

3. In issuing writs of habeas corpus the courts have power in the case of a baby to guide its custody to a certain person.

Sources	Similarity
Gohar Begam v. Suggi Alias Nazma Begam And Others ... In these circumstances, the appellant made her application under Section 491 of the Code of Criminal Procedure on April 18, 1958. She stated that she apprehended that the respondent would remove Anjum to Pakistan any day and there was already a visa for Anjum available for that purpose. https://www.casemine.com/judgement/in/5609ab02e4b014971140b7a7	4%
Gohar Begam vs Suggi Alias Nazma Begam And Others on 27 ... She had not however taken the child Anjum with her but had left her in her flat at Bombay in charge of her cousin ... She denied that Trivedi was the father of the child Anjum and said that the father was a Shia Moslem called Samin Naqui. https://indiankanoon.org/docfragment/845610/?formInput=anjum%20	3%