

**IN THE HIGH COURT FOR THE STATE OF TELANGANA ::  
AT HYDERABAD**

**Civil Revision Petition No.315 of 2024**

Between:

Mrs. Sumana Paruchuri,  
D/o.Sri N. Venkat Rao.

Petitioner

VERSUS

Jakka Vinod Kumar Reddy,  
S/o.Late Jakka Narasimha Reddy,  
and another.

Respondents

**JUDGMENT PRONOUNCED ON: 01.03.2024**

**THE HONOURABLE SRI JUSTICE P.SAM KOSHY**

1. Whether Reporters of Local newspapers  
may be allowed to see the Judgment? : Yes
2. Whether the copies of judgment may be  
Marked to Law Reporters/Journals? : Yes
3. Whether His Lordship wishes to  
see the fair copy of the Judgment? : **Yes**

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**P.SAM KOSHY, J**

**\* THE HONOURABLE SRI JUSTICE P.SAM KOSHY**  
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Respondents

! Counsel for Petitioner(s) : Mr. Sunil S. Ganu, learned Senior Counsel appearing on behalf of Ms. Manajri S. Ganu, learned counsel for the petitioner.

^Counsel for the respondent(s) : Mr. Ahluwalia, learned Senior Counsel appearing on behalf of Mr. H. Rajesh Kumar, learned counsel for the 1<sup>st</sup> respondent.

<GIST:

> HEAD NOTE:

? Cases referred ::

1. (2018) 1 S.C.C. 1
2. (2021) 16 S.C.C. 501

**THE HONOURABLE SRI JUSTICE P.SAM KOSHY****Civil Revision Petition No.315 of 2024****ORDER :**

The present Civil Revision Petition under Article 227 of the Constitution of India has been filed by the petitioner / 1<sup>st</sup> respondent assailing the order dated 12.01.2024 in I.A.No.986 of 2023 in O.P.No.202 of 2020 by the Judge, I Additional Family Court-cum-XIV Additional Metropolitan Sessions Judge, Hyderabad (for short, **‘the impugned order’**).

**2.** Heard Mr. Sunil S. Ganu, learned Senior Counsel appearing on behalf of Ms. Manjari S. Ganu, learned counsel for the petitioner; and Mr. Ahluwalia, learned Senior Counsel, appearing on behalf of Mr. H. Rajesh Kumar, learned counsel for the 1<sup>st</sup> respondent.

**3.** Since the dispute in the present Revision is between husband and wife, for proper appreciation it would be more appropriate and convenient to refer the parties herein as “wife” (petitioner) and “husband” (1<sup>st</sup> respondent).

4. Initially, the husband filed the above O.P. before the Family Court on 25.06.2011 seeking a relief of dissolution of marriage. The pleadings in the said O.P. have already concluded, and the matter is now fixed for recording the evidence of the parties.

5. *Vide* the impugned order, the Court below has allowed the above I.A. preferred by the husband. The said I.A. was a petition filed under Section 151 of The Civil Procedure Code, 1908 (for short, 'the Code') with a prayer to permit the husband herein to be cross-examined virtually and that he may also be permitted to lead his evidence through videoconference. It is this I.A. that was allowed by the Court below, and is under challenge in the present Civil Revision Petition by the wife.

6. It is pertinent at this juncture to mention that the reason for seeking permission to be cross-examined virtually / videoconferencing was that the husband had been staying in Bangkok, Thailand since 2016 along with his teenaged daughter and his mother, a Senior Citizen, aged more than 75 years. It is stated that the husband's mother had recently undergone knee replacement surgery in Bangkok, Thailand,

and therefore, she needs full-time attention round-the-clock and which can only be provided by the husband himself. In addition, he has to take care of his teenage daughter, who is pursuing her profession in the game of Badminton and is undergoing intensive coaching in Bangkok, Thailand.

7. The wife has filed her objections opposing the above I.A. so far as the recording of evidence virtually / videoconferencing. The objection primarily raised by the wife, opposing the above I.A., was that the husband in the course of filing the above O.P. seeking dissolution of marriage has made very wild allegations of mental cruelty, adultery, etc. Therefore, the husband would have to be examined in length and detail in each of the aspects, and therefore, the cross-examination through videoconferencing cannot be effectively done; and therefore, the I.A. ought to have been rejected. It was also her contention that since there were serious allegations levelled by the husband seeking dissolution of marriage, particularly since there were allegations of adultery, etc. to ensure more privacy in the proceedings drawn, the cross-examination virtually should have been avoided by the

Court below and it ought to have insisted that the husband to present physically before the Court.

8. Learned Senior Counsel, Mr. Sunil S. Ganu, Counsel appearing on behalf of Ms. Manjari S. Ganu, for the wife (petitioner), heavily relied upon the decision rendered by a Division Bench of the Hon'ble Apex Court in **Santhini vs. Vijaya Venketesh**<sup>1</sup>, wherein the majority view of the entire Supreme Court was against the notion of having cross-examination in a matrimonial proceedings. In addition, he also relied upon the decision in the case of **Anjali Brahmawar Chauhan vs. Navin Chauhan**<sup>2</sup>.

9. *Per contra*, Mr. Ahluwalia, learned Senior Counsel, appearing on behalf of Mr. H. Rajesh Kumar, learned counsel for the husband (1<sup>st</sup> respondent), opposed the Revision primarily highlighting the fact that since the husband is presently residing in Bangkok, Thailand and also the fact that he has his teenaged daughter staying with him, and also he has to take care of his aged sick mother, it would be in the interest of the husband that the cross-examination may be

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<sup>1</sup> (2018) 1 S.C.C. 1

<sup>2</sup> (2021) 16 S.C.C. 501

recorded virtually. So far as the apprehension and doubts that the wife has as regards privacy is concerned, it was the contention of the learned counsel that all necessary precautions that would be deemed fit by the Court below can be adhered to, to ensure the utmost privacy and secrecy being maintained in the course of recording the evidence through videoconferencing facility.

**10.** In support of his contentions, learned Senior Counsel relied on a couple of recent decisions rendered by the Madras High Court and that of by this Court, whereby it was permitted to record evidence in matrimonial cases through videoconferencing. He also relied on the decision of the Hon'ble Apex Court in the case of **Santhini** (1 supra) to support the decision rendered by the Court below which is under challenge in the instant Revision.

**11.** Having heard the contentions put forth on either side, and on a perusal of the record, at this juncture, it would be relevant to take note of the conclusion arrived at by the Court below while passing the impugned order, relevant portion of which is extracted as under, viz.,

“11. The counsel for the respondent placed reliance on the judgment between [(2018) 1 S.C.C. 1] **Santhini vs. Vijaya Venkatesh** in para 110 held but videoconferencing facilities allow parties to communicate with each other in situations where it would be expensive, inconvenient or otherwise not desirable for a person to attend the court procedure.

12. In para 112 – “but given the delays in judicial proceedings, which are often due to the wilful procrastination of one of the parties, videoconferencing will serve the purpose of safeguarding the interests of justice by preventing undue delay. The massive pendency of cases in India and issues related to access to justice will require a careful deployment of appropriate technologies”.

13. In para no.116 – “but “compulsions of employment, the needs of children, care of the elderly and disability within the family may make it practically impossible for parties to commute to another city to pursue or defend a proceedings. Besides, insistence on physical presence is questionable in a situation where our Family Courts are overburdened and are unable to provide timely justice. To deprive parties of the benefit of videoconferencing will result in a denial of access to justice. Nor can recourse to technology be conditioned on the consent of both spouses for, this will only enable one spouse to procrastinate or delay the proceedings. Withholding consent to videoconferencing will then become a tool in the hands of one of the litigants to delay the proceedings”.



14. In para 117 – “he, as a matter of principle, videoconferencing cannot be excluded from any stage of the proceeding before the Family Court. Whether it should be adopted in a particular case must be left to the judicious view of the Family Court. The High Courts will be well advised to formulate rules to guide the process. The Family Courts must encourage the use of technology to facilitate speedy and effective solutions. Above all, it must be acknowledged that a whole-hearted acceptance of technology is necessary for the courts to meet societal demands for efficient and timely-justice”.

15. In the State of Telangana, vide ROC.No.553/SO/2020 vide Notification No.14/SO/2020, rules for videoconferencing for Courts in the State of T.S. were framed and it came into force on 02.11.2020. As per the videoconference rules, any person are party to the proceedings, i.e., in civil, criminal and family court proceedings, is entitled to seek the permission of the concerned court to record evidence through video conference. Here, in this case, the petitioner is admittedly in Bangkok, Thailand and his old-aged mother is depending on him. Moreover, this O.P. is pending for petitioner’s side evidence, and the matter pertains to the year 2020. Therefore, by placing reliance on the above said judgment and by considering the facts and circumstances, and as it is inconvenient to the petitioner to appear before the court physically and to safeguard the interest of justice by preventing undue delay and as it may become a tool in the hands of one of litigant to delay the proceedings, I am of the considerable opinion that it is

*just and necessary to give permission to the petitioner to file chief evidence affidavit and appear through videoconference for marking of documents and for cross-examination virtually to avoid the delay in the proceedings.”*

**12.** From the aforesaid factual matrix of the case, what is an admitted factual position is that, the affidavit-in-chief as per Order 18 Rule 4 on behalf of the husband before the Court below has already been filed, and it has been filed as early as on 19.06.2023. Since then, the matter is fixed for cross-examination of the husband. It was at this stage that I.A.No.986 of 2023 was filed by the husband on 26.09.1983 from Bangkok, Thailand under Section 151 of the Code seeking for permission to be cross-examined virtually / videoconferencing either through *Zoom* or through *Cisco Webex*. The primary ground for seeking cross-examination virtually was firstly that he resides in Bangkok, Thailand; secondly, he is staying along with his teenaged daughter; and, thirdly, he has to take care of his sick mother who had recently undergone knee replacement; and without there being inconvenience to anybody since the affidavit-in-chief under Order 18 Rule 4 has already been filed and provided to

the wife, the cross-examination alone is what is to be done and that could be done through video-conferencing.

**13.** Keeping the above said facts and circumstances of the case, when this Court looks into the request made by the husband it would be relevant to consider the principles and ratio laid down by the Hon'ble Apex Court on this aspect, in the case of **Santhini** (1 supra).

**14.** Perusal of paragraph No.20 of the judgment in **Santhini** (1 supra) refers to Section 11 of the Family Court which deals with proceedings to be held in camera. For ready reference, paragraph No.20 is reproduced as under, viz.,

*“20. Section 11 provides for proceedings to be held in camera. The provisions, being significant, is reproduced below :*

*“11. Proceedings to be held in camera : In every suit or proceedings to which this Act applies, the proceedings may be held in camera if the Family Court so desires and shall be so held if either party so desires.”*

*On a plain reading of the aforesaid provision, it is limpid that if the Family Court desires, the proceedings should be held in camera and it shall be so held if either*

*of the parties so desires. A reading of the said provision, as it seems to us, indicates that, once one party makes a prayer for holding the proceedings in camera, it is obligatory on the part of the Family Court to do so.”*

**15.** Further, in paragraphs Nos.30, 31 and 33, dealing with the advancement of technology and the need of the hour warranting evidence to be recorded by way of videoconferencing in certain category of cases, the Hon’ble Supreme Court held as under, viz.,

*“30. It is essential to reflect on the reasoning ascribed in Krishna Veni Nagam [Krishna Veni Nagam v. Harish Nagam, (2017) 4 SCC 150 : (2017) 2 SCC (Civ) 394] . As we understand, the two-Judge Bench has taken into consideration the number of cases filed before this Court and the different approaches adopted by this Court, the facet of territorial jurisdiction, doctrine of forum non-conveniens which can be applicable to matrimonial proceedings for advancing the interest of justice, the problems faced by the husband, the recourse taken by this Court to videoconferencing in certain cases and on certain occasions, the advancement of technology, the role of the High Courts to issue appropriate administrative instructions to regulate the use of videoconferencing for certain categories of cases and ruled that the matrimonial cases where one of the parties resides outside the court's jurisdiction do fall in one of such categories.*

**31.** *Before we proceed to analyse further, we would like to cogitate on the principles applied in the decisions rendered in the context of videoconferencing. In State of Maharashtra v. Praful B. Desai [State of Maharashtra v. Praful B. Desai, (2003) 4 SCC 601 : 2003 SCC (Cri) 815] , the proceedings related to recording of evidence where the witness was in a foreign country. In Kalyan Chandra Sarkar v. Rajesh Ranjan [Kalyan Chandra Sarkar v. Rajesh Ranjan, (2005) 3 SCC 284 : 2005 SCC (Cri) 705] , the controversy pertained to a criminal trial under Section 302 IPC wherein the Court, in exercise of power under Article 142 of the Constitution, directed shifting of the accused from a jail in Patna to Tihar Jail at Delhi. In that context, the Court permitted conducting of the trial with the aid of videoconferencing. In Budhadev Karmaskar (4) v. State of W.B. [Budhadev Karmaskar (4) v. State of W.B., (2011) 10 SCC 283 : (2012) 1 SCC (Cri) 285] , the issue of videoconferencing had arisen as the lis related to the rehabilitation of sex workers keeping in view the interpretation of this Court of “life” to mean life of dignity.*

**33.** *The aforesaid pronouncements, as we find, are absolutely different from a controversy that is involved in matrimonial proceedings which relate to various aspects, namely, declaration of marriage as a nullity, dissolution of marriage, restitution of marriage, custody of children, guardianship, maintenance, adjudication of the claim of stridhan, etc. The decisions that have been rendered cannot be regarded as precedents for the*

*proposition that videoconferencing can be one of the modes to regulate matrimonial proceedings.”*

**16.** The Hon’ble Supreme Court further held that videoconferencing can be one of the modes to regulate the matrimonial proceedings. Thereafter, the Hon’ble Apex Court dealing with the aspect of freedom of choice, dignity of a woman, held at paragraph Nos.45, 46 and 47 as under, viz.,

**“45.** *The aforesaid enunciation of law makes it graphically clear that the “constitutional identity”, “freedom of choice”, “dignity of a woman” and “affirmative rights conferred on her by the Constitution” cannot be allowed to be abrogated even for a moment. In this context, we have to scan and appreciate the provision contained in Section 11 of the 1984 Act. The provision, as has been stated earlier, mandates the proceedings to be held in camera if one of the parties so desires. Equality of choice has been conferred by the statute. That apart, Section 22 of the 1955 Act lays down the proceedings to be held in camera and any matter in relation to any such proceeding may not be printed or published except a judgment of the High Court or of the Supreme Court with the previous permission of the Court.*

**46.** *We, as advised at present, constrict our analysis to the provisions of the 1984 Act. First, as we notice, the expression of desire by the wife or the husband is whittled down and smothered if the Court directs that the proceedings shall be conducted through the use of*

*videoconferencing. As is demonstrable from the analysis of para 14 of the decision [Krishna Veni Nagam v. Harish Nagam, (2017) 4 SCC 150 : (2017) 2 SCC (Civ) 394] , the Court observed that wherever one or both the parties make a request for the use of videoconferencing, the proceedings may be conducted by way of videoconferencing obviating the need of the parties to appear in person. The cases where videoconferencing has been directed by this Court are distinguishable. They are either in criminal cases or where the Court found it necessary that the witness should be examined through videoconferencing. In a case where the wife does not give consent for videoconferencing, it would be contrary to Section 11 of the 1984 Act. To say that if one party makes the request, the proceedings may be conducted by videoconferencing mode or system would be contrary to the language employed under Section 11 of the 1984 Act. The said provision, as is evincible to us, is in consonance with the constitutional provision which confer affirmative rights on women that cannot be negated by the Court. The Family Court also has the jurisdiction to direct that the proceedings shall be held in camera if it so desires and, needless to say, the desire has to be expressed keeping in view the provisions of the 1984 Act.*

**47.** *The language employed in Section 11 of the 1984 Act is absolutely clear. It provides that if one of the parties desires that the proceedings should be held in camera, the Family Court has no option but to so direct. This Court, in exercise of its jurisdiction, cannot take away such a sanctified right that law recognizes either for*

*the wife or the husband. That apart, the Family Court has the duty to make efforts for settlement. Section 23(2) of the 1955 Act mandates for reconciliation. The language used under Section 23(2) makes it an obligatory duty on the part of the court at the first instance in every case where it is possible, to make every endeavour to bring about reconciliation between the parties where it is possible to do so consistent with the nature and circumstances of the case. There are certain exceptions as has been enumerated in the proviso which pertain to incurably of unsound mind or suffering from a virulent and incurable form of leprosy or suffering from venereal disease in a communicable form or has renounced the world by entering any religious order or has not been heard of as being alive for a period of seven years, etc. These are the exceptions carved out by the legislature. The Court has to play a diligent and effective role in this regard.”*

**17.** Finally, the majority view while concluding in the case of **Santhini** (1 supra), as reflected in paragraph Nos.56 & 57, are also extracted hereunder :

*“56. We have already discussed at length with regard to the complexity and the sensitive nature of the controversies. The statement of law made in Krishna Veni Nagam [Krishna Veni Nagam v. Harish Nagam, (2017) 4 SCC 150 : (2017) 2 SCC (Civ) 394] that if either of the parties gives consent, the case can be transferred, is absolutely unacceptable. However, an exception can be*



*carved out to the same. We may repeat at the cost of repetition that though the principle does not flow from statutory silence, yet as we find from the scheme of the Act, the Family Court has been given ample power to modulate its procedure. The Evidence Act is not strictly applicable. Affidavits of formal witnesses are acceptable. It will be permissible for the other party to cross-examine the deponent. We are absolutely conscious that the enactment gives emphasis on speedy settlement. As has been held in *Bhuwan Mohan Singh [Bhuwan Mohan Singh v. Meena, (2015) 6 SCC 353 : (2015) 3 SCC (Civ) 321 : (2015) 4 SCC (Cri) 200]* , the concept of speedy settlement does not allow room for lingering the proceedings. A genuine endeavour has to be made by the Family Court Judge, but in the name of efforts to bring in a settlement or to arrive at a solution of the lis, the Family Court should not be chained by the tentacles by either parties. Perhaps, one of the parties may be interested in procrastinating the litigation. Therefore, we are disposed to think that once a settlement fails and if both the parties give consent that a witness can be examined in videoconferencing, that can be allowed. That apart, when they give consent that it is necessary in a specific factual matrix having regard to the convenience of the parties, the Family Court may allow the prayer for videoconferencing. That much of discretion, we are inclined to think can be conferred on the Family Court. Such a limited discretion will not run counter to the legislative intention that permeates the 1984 Act. However, we would like to add a safeguard. A joint application should be filed before the Family Court Judge, who shall take a decision. However,*

*we make it clear that in a transfer petition, no direction can be issued for videoconferencing. We reiterate that the discretion has to rest with the Family Court to be exercised after the court arrives at a definite conclusion that the settlement is not possible and both parties file a joint application or each party filing his/her consent memorandum seeking hearing by videoconferencing.*

*58. In view of the aforesaid analysis, we sum up our conclusion as follows:*

*58.1. In view of the scheme of the 1984 Act and in particular Section 11, the hearing of matrimonial disputes may have to be conducted in camera.*

*58.2. After the settlement fails and when a joint application is filed or both the parties file their respective consent memorandum for hearing of the case through videoconferencing before the Family Court concerned, it may exercise the discretion to allow the said prayer.*

*58.3. After the settlement fails, if the Family Court feels it appropriate having regard to the facts and circumstances of the case that videoconferencing will subserve the cause of justice, it may so direct.*

*58.4. In a transfer petition, videoconferencing cannot be directed.*

*58.5. Our directions shall apply prospectively.*

58.6. *The decision in Krishna Veni Nagam [Krishna Veni Nagam v. Harish Nagam, (2017) 4 SCC 150 : (2017) 2 SCC (Civ) 394] is overruled to the aforesaid extent.*

**18.** At the same time, it would be relevant also to take note of the dissenting view of one of the Hon'ble Judges of the said Bench, viz., [Dr. Justice D.Y. Chandrachud, as he then was], wherein at paragraph No.61, while dissenting in paras 61.1 to 61.10, took the following view, viz.,

**“61.1.** *The Family Courts Act, 1984 has been enacted at a point in time when modern technology (at least as we know it today) which enables persons separated by spatial distances to communicate with each other face to face was not the order of the day or, in any case, was not as fully developed. That is no reason for any court, especially for this Court which sets precedent for the nation, to exclude the application of technology to facilitate the judicial process.*

**61.2.** *Appropriate deployment of technology facilitates access to justice. Litigation under the Family Courts Act, 1984 is not an exception to this principle. This Court must be averse to judicially laying down a restraint on such use of technology which facilitates access to justice to persons in conflict, including those involved in conflicts within the family. Modern technology is above all a facilitator, enabler and leveller.*

**61.3.** *Videoconferencing is a technology which allows users in different locations to hold face to face meetings. Videoconferencing is being used extensively the world over (India being no exception) in online teaching, administration, meetings, negotiation, mediation and telemedicine among a myriad other uses. Videoconferencing reduces cost, time, carbon footprint and the like.*

**61.4.** *An in-camera trial is contemplated under Section 11 in two situations : the first where the Family Court so desires; and the second if either of the parties so desires. There is a fallacy in the hypothesis that an in-camera trial is inconsistent with the usage of videoconferencing techniques. A trial in camera postulates the exclusion of the public from the courtroom and allows for restraints on public reporting. Videoconferencing does not have to be recorded nor is it accessible to the press or the public. The proper adoption of videoconferencing does not negate the postulates of an in-camera trial even if such a trial is required by the court or by one of the parties under Section 11.*

**61.5.** *The Family Courts Act, 1984 envisages an active role for the Family Court to foster settlements. Under the provisions of Section 9, the Family Court has to endeavour to “assist and persuade” parties to arrive at a settlement. Section 9 clearly recognises a discretion in the Family Court to determine how to structure the process. It does so by adopting the words “where it is possible to do so consistent with the nature and circumstances of the*

*case”. Moreover, the High Courts can frame rules under Section 9(1) and the Family Court may, subject to those rules, “follow such procedure as it deems fit”. In the process of settlement, Section 10(3) enables the Family Court to lay down its own procedure. The Family Court is entitled to take the benefit of counsellors, medical experts and persons professionally engaged in promoting the welfare of the family.*

**61.6.** *The above provisions—far from excluding the use of videoconferencing—are sufficiently enabling to allow the Family Court to utilise technological advances to facilitate the purpose of achieving justice in resolving family conflicts. There may arise a variety of situations where in today's age and time parties are unable to come face to face for counselling or can do so only at such expense, delay or hardship which will defeat justice. One or both spouses may face genuine difficulties arising from the compulsions of employment, family circumstances (including the needs of young children), disability and social or economic handicaps in accessing a court situated in a location distant from where either or both parties reside or work. It would be inappropriate to deprive the Family Court which is vested with such wide powers and procedural flexibility to adopt videoconferencing as a facilitative tool, where it is convenient and readily available. Whether videoconferencing should be allowed must be determined on a case-to-case analysis to best effectuate the concern of providing just solutions. Far from such a procedure being excluded by the law, it will subserve the purpose of the law.*

**61.7.** *Conceivably there may be situations where parties (or one of the spouses) do not want to be in the same room as the other. This is especially true when there are serious allegations of marital abuse. Videoconferencing allows things to be resolved from the safety of a place which is not accessible to the other spouse against whom there is a serious allegation of misbehavior of a psychiatric nature or in a case of substance abuse.*

**61.8.** *Videoconferencing is gender neutral. In fact it ensures that one of the spouses cannot procrastinate and delay the conclusion of the trial. Delay, it must be remembered, generally defeats the cause of a party which is not the dominant partner in a relationship. Asymmetries of power have a profound consequence in marital ties. Imposing an unwavering requirement of personal and physical presence (and exclusion of facilitative technological tools such as videoconferencing) will result in a denial of justice.*

**61.9.** *The High Courts have allowed for videoconferencing in resolving family conflicts. A body of precedent has grown around the subject in the Indian context. The Judges of the High Court should have a keen sense of awareness of prevailing social reality in their States and of the federal structure. Videoconferencing has been adopted internationally in resolving conflicts within the family. There is a robust body of authoritative opinion on the subject which supports videoconferencing, of course with adequate safeguards. Whether*

*videoconferencing should be allowed in a particular family dispute before the Family Court, the stage at which it should be allowed and the safeguards which should be followed should best be left to the High Courts while framing rules on the subject. Subject to such rules, the use of videoconferencing must be left to the careful exercise of discretion of the Family Court in each case.*

**61.10.** *The proposition that videoconferencing can be permitted only after the conclusion of settlement proceedings (resultantly excluding it in the settlement process), and thereafter only when both parties agree to it does not accord either with the purpose or the provisions of the Family Courts Act, 1984. Exclusion of videoconferencing in the settlement process is not mandated either expressly or by necessary implication by the legislation. On the contrary, the legislation has enabling provisions which are sufficiently broad to allow videoconferencing. Confining it to the stage after the settlement process and in a situation where both parties have agreed will seriously impede access to justice. It will render the Family Court helpless to deal with human situations which merit flexible solutions. Worse still, it will enable one spouse to cause interminable delays thereby defeating the purpose for which a specialized court has been set up.”*

**19.** The Division Bench further went on in dealing with the videoconferencing and the statutes in paragraph Nos.79, 80, 85, 87, 88 and 89 as under :-

**“Videoconferencing and the statute ::**

**79.** Videoconferencing transmits video, audio and data across a communications network enabling geographically dispersed participants to meet synchronously. “The general keyword associated with videoconferencing is interactivity. This allows real time visual and audio contact between two or more persons at different geographical locations.” [ “The Technology and Pedagogy of Two-way communication over Geographical distance”, University of Malta (2013) <[https://www.um.edu.mt/itservices/documents/guides/videoconferencingguides/VC\\_full\\_guide.pdf](https://www.um.edu.mt/itservices/documents/guides/videoconferencingguides/VC_full_guide.pdf)>.] The emotional attachment which people can develop (or rekindle) when they are in the same physical space cannot be undermined. However, it must be noted that the effect of videoconferencing is that people who are not present at the same place and at the same time are able to interact with each other as if they are present together. The premise, in the referring judgment that “the footage in videoconferencing becomes part of the record” is incorrect. It does not necessarily become a part of the record. Discussions relayed through videoconferencing in the course of settlement will of course not be recorded. Technology answers our commands.

**80.** Section 10(3) of the Family Courts Act enables a Family Court to lay down its own procedure with a view to arrive at a settlement in respect of the subject-matter of the suit or proceedings. Far from embodying a specific bar or prohibition to the use of videoconferencing, this



*provision gives the Family Court ample powers to use videoconferencing in matrimonial disputes, where appropriate.*

**85.** *Videoconferencing and in-camera proceedings are not irreconcilable. Videoconferencing, in itself, is a private interaction. It does not involve third persons or spectators apart from the two participants between whom the videoconferencing is taking place (Judge or counsellor and one of the parties to the dispute). As long as it is not accessible to the public, privacy is maintained. Therefore, it does not run contrary to the intent of Section 11, which is to maintain privacy. The same level of privacy that is afforded to parties during in-camera proceedings which take place in the same physical space, can be maintained over the virtual space of videoconferencing. Technology also allows us to ensure that there is no record of the conversation which took place through videoconferencing, once the conversation is over. This is similar to a telephone call (unless the call was being recorded). Technology provides flexibility. Discussions across an audio-visual link in the course of counseling or conciliation will not be recorded so as to maintain privacy and intimate confidences. On the other hand, where in the course of a trial, a judge requires that a record of the deposition be maintained, technology will facilitate it.*

**87.** *This Court must also take a robust view of today's conditions. We are living in an age of technology. Men and women have access to and are in possession of instruments which use advanced technologies. The reality*

*is that the world is not a closed space. It has never been, and is becoming increasingly interconnected. People are constantly moving from one place to another in the course of their personal and professional pursuits. In spite of the distances that this movement entails, people are able to interact with each other because of digital facilities. Most desktops and mobile devices have cameras, thereby facilitating the ease of online communications in the audio-visual mode.*

**88.** *Videoconferencing has made face-to-face interactions possible even in the absence of physical proximity. Technological developments have brought a turning point in the history of human civilisation and have resulted in enhanced efficiency, productivity and quality of output in every walk of life. Technology has paved the way for an open and accessible world where physical barriers to communication and connectivity have broken down.*

**89.** *Technology must also be seen as a way of bringing services into remote areas to deal with problems associated with the justice delivery system. With the increasing cost of travelling and other expenses, videoconferencing can provide a cost-effective and efficient alternative. Solutions based on modern technology allow the court to enhance the quality and effectiveness of the administration of justice. The use of technology can maximise efficiency and develop innovative methods for delivering legal services. Technology-based solutions must be adopted to facilitate*

*access to justice. Family Courts are overburdened with all too familiar problems : too few courts, vacancies in Judge strength and a creaking infrastructure. Men and women in matrimonial distress have their woes compounded in the justice delivery system. Repeated adjournments break the back of the litigant. We must embrace technology and not retard its application, to make the administration of justice efficient.”*

**20.** Finally, the Hon’ble dissenting Judge issued a direction in paragraph Nos.110 to 113, dealing with the necessity of videoconferencing facilities, held as under :-

**“Videoconferencing must be in the interest of justice ::**

**110.** *Videoconferencing facilities allow parties to communicate with each other in situations where it would be expensive, inconvenient or otherwise not desirable for a person to attend the court procedure.*

**111.** *The overriding factor, as contemplated by the Delhi High Court in its videoconferencing guidelines [“Videoconferencing Guidelines issued by the High Court of Delhi” <[http://www.nja.nic.in/CJ-CM\\_Resolution/Delhi\\_HC/Video%20Conferencing%20Guidelines%20issued%20by%20DHC.PDF](http://www.nja.nic.in/CJ-CM_Resolution/Delhi_HC/Video%20Conferencing%20Guidelines%20issued%20by%20DHC.PDF)>.] , is that the use of videoconferencing in any particular case must be consistent with furthering the interests of justice and should cause minimal disadvantage to the parties.*

**112.** *Given the delays in judicial proceedings, which are often due to the willful procrastination of one of the parties, videoconferencing will serve the purpose of safeguarding the interests of justice by preventing undue delay. The massive pendency of cases in India and issues related to access to justice will require a careful deployment of appropriate technologies.*

**113.** *The High Courts, under Section 9(1) of the Family Courts Act, should lay down guidelines in regard to videoconferencing in matrimonial matters. The Delhi High Court has provided for certain minimum requisites for the application of videoconferencing in all cases. They are as follows:*

- (a) A desktop or laptop with internet connectivity and printer,*
- (b) Device ensuring uninterrupted power supply,*
- (c) Video camera,*
- (d) Microphones and speakers,*
- (e) Display unit,*
- (f) Document visualiser,*
- (g) Comfortable sitting arrangements ensuring privacy,*
- (h) Adequate lighting,*
- (i) Proper acoustics,*
- (j) Digital signatures from licensed certifying authorities for the coordinators at the court point and at the remote point.*

**21.** So also, the Division Bench enumerated the various conditions under which it becomes compulsory for either of the parties to seek for videoconferencing facility is also enumerated at paragraph No.116, and finally in paragraph No.117, it was left open for a judicious approach of the Family Court taking into consideration the over-all factual backdrop of the case while deciding the application for conducting virtual hearing. For ready reference, paragraph Nos.116 & 117 are reproduced as under :-

*“116. As in many other areas of law and life, there is a gorge between the ideal and the real. In an ideal world, spouses and partners live in everlasting harmony. Fairy tales are built along the lore of couples “who lived happily ever after...”, but we know that life is not perfect. Indeed, some would believe that the perfection of life lies in its imperfections. In marital relationships, the spirit of dialogue and a faith in a plurality of views leads to a synthesis between often conflicting ideas, opinions, aspirations and needs. Yet marital relationships do on occasion run aground, increasingly so in recent times. Institutions such as the Family Courts are intended to provide service to families in distress. In doing so, there must be a synthesis between the ideals of the law and the need to implement them in dealing with practical problems of society today. The challenge is to build a robust pathway that bridges the ideal and the real. In an*

*ideal sense, the physical presence of couples sharing the same physical space before a Judge or counsellor may foster a settlement. Yet there are genuine reasons why parties are unable to remain together in one physical space or do not desire to do so. A spouse may have been subject to grave marital abuse. Another may have been repeatedly violated by a history of domestic abuse and gender violence. One of the spouses may be involved in substance abuse or may suffer from psychiatric disorder. Technology enables the judicial forum to protect the legitimate concerns of privacy of one or both spouses. Spouses, even without the above problems, may live apart in distant cities because of reasons of employment. Compulsions of employment, the needs of children, care of the elderly and disability within the family may make it practically impossible for parties to commute to another city to pursue or defend a proceeding. Besides, insistence on physical presence is questionable in a situation where our Family Courts are overburdened and are unable to provide timely justice. To deprive parties of the benefit of videoconferencing will result in a denial of access to justice. Nor can recourse to technology be conditioned on the consent of both spouses for, this will only enable one spouse to procrastinate or delay the proceeding. Withholding consent to videoconferencing will then become a tool in the hands of one of the litigants to delay the proceedings.*

**117.** *As a matter of principle, videoconferencing cannot be excluded from any stage of the proceeding before the Family Court. Whether it should be adopted in a particular*

*case must be left to the judicious view of the Family Court. The High Courts will be well advised to formulate rules to guide the process. The Family Courts must encourage the use of technology to facilitate speedy and effective solutions. Above all, it must be acknowledged that a whole-hearted acceptance of technology is necessary for the courts to meet societal demands for efficient and timely justice.”*

**22.** When thereafter yet another matter came up before the Hon’ble Supreme Court in the case of **Anjali Brahmawar Chauhan vs. Navin Chauhan** wherein in para No.3, the Hon’ble Supreme Court held as under:

*“3. Notice was issued in the review petition on 20-3-2018. Due to the ongoing pandemic, physical functioning of the courts has been stopped since March 2020. Proceedings in all courts are being conducted only through videoconferencing. In the normal course we would not have directed videoconferencing in respect of matrimonial matters as per the judgment of this Court mentioned above. However, in the present situation where all proceedings are conducted through videoconferencing, we direct the Family Court, District Gautambudh Nagar, U.P. to conduct the trial through videoconferencing.”*

**23.** From a plain reading of the aforesaid contents of the judgment of the Hon’ble Supreme Court makes it evidently clear that the Hon’ble Supreme Court was considering

recording of evidence by videoconferencing. It went on to hold that in a given case if the situation so warrants, the evidence of party can be recorded by way of videoconferencing. It is also evident from the fact that the Hon'ble Supreme Court has not held that in matrimonial matters the evidence is not to be recorded virtually and also made an observation that since all other matters are also being conducted virtually, there is no reason why the proceedings under matrimonial matters should be proceeded virtually and the evidence be recorded.

**24.** Indeed, the evolution of technology and its integration into the judicial system is a testament to our society's adaptability and continual strive towards progress. Videoconferencing not only provides a practical solution to geographical constraints but also reinforces the principles of fairness and equality. It allows for the democratization of justice, ensuring that all parties, regardless of their location or circumstances, have an equal opportunity to participate in the proceedings. Moreover, this case underscores the importance of striking a balance between leveraging technology and preserving the sanctity of judicial



proceedings. While videoconferencing can enhance efficiency and accessibility, it is critical that it does not compromise the dignity, privacy, and rights of the parties involved. It is therefore incumbent upon the judicial system to ensure that robust privacy measures are in place and that the technology is used judiciously and ethically. This case serves as a potent reminder that while we embrace technological advancements, we must remain steadfast in upholding the principles of justice. As we navigate through this digital era, it is essential to continually assess and adapt our judicial processes to ensure they are in sync with our changing times, all while maintaining the core tenets of justice – fairness, impartiality, and accessibility.

**25.** It is imperative to acknowledge the critical role that technology, specifically videoconferencing, plays in fostering a fair and efficient judicial process in the present case. The husband's request to appear virtually should not be rejected solely on the grounds of the wife's disapproval. Instead, the focus should be on ensuring that both parties have equal opportunities to participate in the proceedings, regardless of their geographical locations or personal circumstances.

Videoconferencing provides a practical solution to bridge the physical gap and allows for seamless communication, thereby ensuring that no party is disadvantaged due to their inability to be physically present. This use of technology promotes a more equitable and inclusive judicial system, which is particularly crucial in cases like these where personal matters are being adjudicated. Moreover, it's important to recognize that the efficient use of videoconferencing can contribute to a more expedient trial process. By eliminating the necessity for physical attendance, the court can potentially reduce delays and expedite proceedings, thereby serving the larger goal of speedy justice. However, while embracing this technology, it is equally important to ensure that the privacy and dignity of both parties are respected and adequate safeguards are put in place to prevent any misuse or breach of confidentiality.

**26.** So far as the privacy of the parties are to be maintained, appropriate steps can be taken easily by the concerned Trial Court ensuring that all necessary privacy is ensured and maintained in the course of recording of evidence even when the cross-examination is being recorded through

videoconferencing. Further, the Court can also ensure considering the recording of evidence taking into consideration the time zone of the two places i.e. the time zone at the place where husband is sitting for his evidence and the time zone at the place where the counsel of the wife intends to cross-examine which can be easily monitored to be done with utmost confidentiality, transparency and maintaining privacy.

**27.** For all the aforesaid reasons, this Court is of the considered opinion that the view taken by the Court below while allowing the application of the husband for recording of the evidence through videoconferencing cannot be found fault with. The present Civil Revision Petition thus being devoid of merits deserves to be and is accordingly dismissed. No costs.

**28.** As a sequel, miscellaneous applications pending if any, shall stand closed.

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**P. SAM KOSHY, J**

Date: 01.03.2024

**Note: LR Copy to be marked: YES**

B/o.

Ndr