

P v (1) D (2) X (3) Y (4) Z (2014)

**[2014] EWHC 2355 (Fam)**

15/08/2014

### **Barristers**

Teertha Gupta KC  
Sam King KC  
Private: Hassan Khan  
Andrew Powell

### **Court**

Family Division

### **Practice Areas**

Private Children Law

### **Summary**

In the light of the father's conviction for raping the mother and the Family Division's findings that he had physically abused her and the elder two of their three daughters, the court granted injunctions preventing him from communicating with them, attempting to locate them and coming within 10 miles of where he thought they lived, as well as orders that the youngest daughter should reside with the mother and have no contact with the father, and a prohibited steps order prohibiting him from taking any steps in the exercise of parental responsibility in respect of that child.

### **Facts**

The applicant mother (M) sought injunctions to prevent the first respondent father (F) from communicating with her and their daughters (X, Y and Z), attempting to locate them and coming within 10 miles of where he thought they lived. She also sought orders that the youngest child, Z, who was now 14, should reside with her and have no contact with F, and a prohibited steps order preventing him from taking any steps in the exercise of parental responsibility.

M, X and Y had alleged that F had been violent towards them, and they moved, with Z, to a succession of secret locations to avoid F finding them. Family proceedings were started and the court gave permission for disclosure of information to the police so that they could investigate one of M's allegations, which was that F had raped her. F was subsequently convicted and sentenced to 17 years' imprisonment. Although he was currently in prison, he resisted M's applications in the instant proceedings for the injunctions and orders.

### **Held**

Where a person had been convicted of criminal offences arising from facts which were subsequently in issue in a children's case, the doctrine of res judicata applied so that the conviction was accepted as

evidence of the underlying facts. Therefore, the court would proceed on the basis that F was properly convicted. The convictions and F's persistent untrue denials about the facts underlying them were evidence which the court had to take into account when considering the other allegations made by M, X and Y and when deciding what orders to make in the light of the findings in respect of those allegations. On the balance of probabilities, the evidence showed that F had abused M, X and Y, and had relentlessly sought to track down and communicate with the family, who had been in hiding from him for several years because they were genuinely frightened of him. In view of those findings, the court would order that Z should live with M. Furthermore, Z's welfare required the court to take the exceptional course of ordering that there should be no contact with F. Her welfare also demanded that she be given the highest level of protection that could be provided by the court. Equally, M, X and Y needed the same degree of protection and so the injunctions sought would be granted. In regard to parental responsibility, in most cases it was in a child's interests that both parents should have and exercise that responsibility. However, the court had power under the Children Act 1989 s.8 to restrict the exercise of parental responsibility by making a prohibited steps order. Again, Z's welfare demanded that F should not exercise parental responsibility for her and that parental responsibility should be exercised exclusively by M. Accordingly, a prohibited steps order would be made under s.8 prohibiting F from taking any steps in the exercise of his parental responsibility in respect of Z until she attained the age of 18 or further order. The court would also make a declaration that M was under no obligation to inform or consult F in respect of the exercise of parental responsibility over Z (see paras 30-31, 83-87, 96, 106-109, 114-116 of judgment).

## Permission

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