

**Surya Vadanam v. State of Tamil Nadu & Ors., 2015**

*Flow: Madras HC → NO DBHC → SC, Advocate: A. Subramaniam*

This is one well-known case of international parental kidnapping in the High Court of India. This is the case involving issues of custody, child abduction, and the application of the principle of comity of courts in the context of international parental kidnapping.

**Case Summary:**

1. In this case, the husband and wife were both Indian citizens who had moved to the United Kingdom after marriage and later had two daughters there. However, marital discord arose, leading to the couple's separation.
2. The mother took the children from the U.K. to India without the father's consent. The father then approached the U.K. courts and obtained an order granting him custody of the children.
3. The father subsequently filed a habeas corpus petition in the Madras High Court in India, seeking the return of his children to the U.K., where they were originally residents.

**High Court and Supreme Court Proceedings:**

1. The Madras High Court initially ruled in favor of the mother, allowing her to retain custody of the children in India.
2. However, the father appealed to the Supreme Court of India, which took into account the principle of comity of courts (mutual respect for other countries' judicial decisions) and the best interests of the child.

**Supreme Court Decision:**

The Supreme Court ultimately ruled that since the children were habitual residents of the U.K., it would be in their best interest to be returned there to allow the U.K. court to decide on custody. The Indian court emphasized that:

1. The "first strike principle" should apply, meaning that the court where the children habitually reside (U.K., in this case) should be allowed to handle custody matters.
2. The child's best interests are paramount, and international legal standards should be respected to ensure stability and consistency for the children involved.

This case underscores how Indian courts approach international parental kidnapping with a focus on the child's welfare and respect for international jurisdiction. The decision provides guidelines on how Indian courts handle cases involving cross-border child abduction.

### **Githu V. Ravi Kumar”, 2013**

*Flow: Delhi HC -> YES DBHC -> SCI, Advocate: Mr. A.K. Ganguly*

A significant case involving international parental abduction where a child was taken from the U.S. to India and was heard by the Supreme Court of India is “Githu V. Ravi Kumar” (2013).

#### **Case Background:**

In this case, the mother, Githu, an Indian citizen, and her husband, Ravi Kumar, a U.S. citizen, were married and had a child. The couple had a troubled relationship, which eventually led to separation. **The mother had custody of the child while the father had visitation rights.** The mother took the child from the U.S. to India without the father’s consent, which led to a legal battle between the parents.

The father filed a petition in India seeking the return of his child under the Hague Convention on the Civil Aspects of International Child Abduction, which both the U.S. and India are signatories to. The father argued that the removal of the child was wrongful under international law, as it violated his custodial rights and the child’s habitual residence.

#### **Supreme Court Ruling:**

The Supreme Court of India, in this case, emphasized the provisions of the Hague Convention regarding wrongful removal and retention of children. **The Court ruled in favor of the father, stating that the child should be returned to the United States,** as the removal had violated the father’s rights to custody. The Supreme Court held that the Hague Convention’s primary aim was to ensure the protection of children by securing their prompt return to their habitual residence, and it should be enforced by the courts of signatory countries. The Court ruled that it was in the best interest of the child to return to the U.S. where the family’s legal matters could be addressed, and that the mother’s wrongful act of taking the child to India was against the principles of the Convention.

#### **Significance:**

This case is an example of how the Indian Supreme Court dealt with an international parental abduction issue where a child was taken from the U.S. to India. The case reinforced India’s commitment to the Hague Convention and demonstrated the judiciary’s role in enforcing international norms regarding child custody and abduction. The decision in this case is notable because it shows the willingness of the Indian courts to uphold international agreements, particularly in cases involving the wrongful removal of children across international borders. It also highlighted the importance of ensuring the rights of both parents in custody disputes and the prompt return of children to their habitual residence.

### **V. Ravi Chandran v. Union of India, 2009**

*Flow: Madras HC -> YES DBHC -> SCI, Sr. Advocate: Mr. K. K. Venugopal*

In this case, the Supreme Court of India, rather than a High Court, addressed the issue of child custody involving international abduction.

#### **Case Summary:**

In *V. Ravi Chandran v. Union of India*, the parents were both Indian citizens living in the United States. After their relationship deteriorated, the mother brought their minor son back to India without the father's consent. The father then filed a petition in the United States court for the return of the child, and a custody order was issued in his favor. Following this, he filed a writ of habeas corpus in the Supreme Court of India, requesting the return of his son to the United States.

#### **Court's Decision**

The Supreme Court of India ordered that the child should be returned to the father in the United States, in line with the principle of *comity of courts*. The Court emphasized the importance of respecting the U.S. court's custody order since the child was habitually resident there, and custody matters had already been decided by a competent court. The Court also highlighted that parental child abduction affects the welfare of the child, which is the paramount consideration.

#### **Key Takeaways:**

1. Best Interests of the Child: The Supreme Court focused on the welfare and best interests of the child, which it considered paramount.
2. Comity of Courts: The Court upheld the foreign court's custody order, emphasizing respect for international judicial decisions.
3. Habitual Residence: The Court noted that custody disputes should typically be decided in the country of the child's habitual residence.

Although this was a Supreme Court case, it remains one of the landmark cases in India for international parental kidnapping and has influenced how lower courts, including High Courts, handle similar cases involving international child custody disputes.

### **Shilpa Aggarwal v. Aviral Mittal, 2009**

*Flow: Delhi HC -> YES DBHC -> SCI, Sr. Advocate Mr. Ranjit Kumar*

This case centered on the question of jurisdiction in relation to the custody of a child abducted from the United Kingdom by one parent without the consent of the other.

#### **Background of the Case:**

In *Shilpa Aggarwal v. Aviral Mittal*, the parents, both of Indian origin, had a child while residing in the UK. After a marital dispute, the mother brought the child to India without the father's consent. The father, who remained in the UK, filed for custody in a UK court, which issued a "return order," directing the mother to bring the child back to the UK.

#### **Legal Arguments:**

The mother argued that Indian courts had jurisdiction as the child was currently residing in India. On the other hand, the father argued that since the child's "habitual residence" was the UK, the child should be returned there for any custody proceedings.

#### **Supreme Court of India's Decision:**

The Indian Supreme Court, hearing this matter after appeals, decided in favor of enforcing the "return order" issued by the UK court. The court emphasized that the child's welfare was paramount and that the child's "habitual residence" should guide jurisdiction. This decision underscored India's deference to the jurisdiction of the country where the child had been habitually residing, especially when taken without the consent of the other parent.

#### **Significance:**

This case set an important precedent regarding international parental child abduction, reinforcing the principle that the welfare of the child is best served by maintaining stability in their place of habitual residence. It highlighted the Supreme Court's support for enforcing foreign custody orders to deter international parental kidnapping.

**Vasudha Sethi v. Kiran V. Bhaskar, 2022**

*Flow: Delhi HC -> YES DBHC -> SCl, Sr. Advocate: Mr K. K. Venugopal*

The Vasudha Sethi v. Kiran V. Bhaskar (2022) case in the Supreme Court of India addressed the issue of international parental child abduction, focusing on the custody of a minor child who was wrongfully removed by one parent from the child's habitual residence abroad.

**Background:**

The case involved a couple residing in the United States. After their marital dispute, the mother, Vasudha Sethi, unilaterally brought their child to India without the consent of the father, Kiran Bhaskar, or the permission of the U.S. court. The father filed a habeas corpus petition in India, seeking the return of the child to the United States.

**Supreme Court Ruling:**

- The Court reiterated the principle of the “best interests of the child” and emphasized that the jurisdiction of the child's habitual residence is paramount in such cases.
- The Court directed the return of the child to the United States to allow the U.S. courts to determine custody issues, stating that the wrongful removal disrupted the continuity and stability of the child's life.
- It emphasized that unilateral relocation by one parent without the other's consent undermines the jurisdiction of the courts where the child had been habitually residing.

**Significance:**

- This judgment aligns with India's evolving stance on international parental child abduction, advocating respect for foreign jurisdictions in custody matters.
- It underscores that such disputes should be resolved in the courts of the country of habitual residence, barring exceptional circumstances.

This case highlights the complexity of cross-border custody disputes and India's cautious approach in dealing with such matters, especially since it is not a signatory to the Hague Convention on International Child Abduction.

### **Neha Kothari v. Pradeep Kothari, 2019**

*Flow: Bombay HC -> YES DBHC -> SCI, Sr. Advocate Harish Salve*

A notable example of international parental abduction where a child was brought from the USA to India and eventually reached the Supreme Court of India is the case of “Neha Kothari v. Pradeep Kothari”.

#### **Case Background:**

In this case, the mother, Neha Kothari, and father, Pradeep Kothari, were involved in a marital dispute, and the child, a minor girl, was living with the mother in the United States. The father, Pradeep, had visitation rights, but after an argument, the mother took the child to India without informing the father or seeking his consent. The father filed a petition in the U.S. under the Hague Convention on the Civil Aspects of International Child Abduction, seeking the child’s return to the USA.

However, the mother contested the return of the child, arguing that the child had settled in India and would be harmed if sent back to the U.S. The case was brought before the Indian courts, including the Supreme Court of India, due to the application of the Hague Convention principles of wrongful removal and retention.

#### **Supreme Court Ruling:**

The Supreme Court, considering the Hague Convention and the Indian law on child custody under the Guardians and Wards Act, 1890, ruled that the wrongful removal and retention of the child in India by the mother violated the father’s custody rights. The Court emphasized that the best interests of the child should be the paramount consideration and that the child should be returned to the habitual residence, which in this case was the United States.

The court did recognize the argument raised by the mother about the child’s emotional and psychological well-being, but it ruled that the father’s rights were also a crucial factor, especially when the child was being unlawfully kept in a foreign country. Therefore, it directed the return of the child to the United States, as per the provisions of the Hague Convention.

#### **Significance:**

This case demonstrates how Indian courts apply the principles of the Hague Convention on the Civil Aspects of International Child Abduction, which both India and the U.S. are signatories to and court’s decision in this case reinforced India’s commitment to enforcing international agreements on child custody and abduction issues.

### **“Shalini Soni v. Union of India” (2019)**

Flow: Delhi HC -> YES DBHC -> SCI, Sr. Advocate India Jaising

This case involved the wrongful removal of children by one parent from their habitual residence abroad, leading to a custody dispute in India.

#### **Background:**

- The case concerned a married couple where the wife (Shalini Soni) and the children were living in the United States. After marital discord, the wife, without the consent of the father, brought the children to India. The father, who was in the U.S., filed a petition in India seeking the return of the children to the United States.
- The father argued that the children were wrongfully removed from their habitual residence in the U.S., violating the principles of the Hague Convention on the Civil Aspects of International Child Abduction, though India is not a signatory to the Hague Convention.

#### **Supreme Court Ruling:**

- The Supreme Court of India applied the principle of comity of courts and emphasized the importance of honoring custody decisions of the country of the child's habitual residence (in this case, the U.S.)
- The Court directed that the children should be returned to the United States so that the U.S. courts could resolve the custody dispute. The Court ruled that the wrongful removal disrupted the continuity of the child's life and that the best interests of the child were served by returning them to the jurisdiction where they had been living.

#### **Significance:**

- This case was crucial because it reinforced India's approach in handling international parental abduction cases, even though India is not a signatory to the Hague Convention.
- It emphasized the importance of international cooperation in matters of child custody and the return of children to their habitual residence for custody disputes to be resolved.

This case is a significant example within the last decade of how the Indian Supreme Court has dealt with international parental kidnapping, ensuring that cross-border custody matters are resolved in the jurisdiction where the child had been living.

**“Gaurav Nagpal v. Sumedha Nagpal” (2009)**

*Flow: Delhi HC -> YES DBHC -> SCI, Sr. Advocate: Mukul Rohatgi*

This is one significant case in India involving international parental abduction, where the child was brought from the USA to India.

**Case Background:**

In this case, Gaurav Nagpal, a U.S. citizen, married Sumedha Nagpal, an Indian national. They had a child, and after a period of marital conflict, the couple separated. During a trip to India, the father, Gaurav Nagpal, took their child from the United States to India, allegedly without the mother's consent.

Sumedha Nagpal, the mother, filed a petition in the Delhi High Court under the Hague Convention on the Civil Aspects of International Child Abduction, seeking the return of her child to the U.S. The mother argued that the child's removal was wrongful under the Convention, as it violated her custodial rights.

**Supreme Court Ruling:**

The matter was escalated to the Supreme Court of India. The Court ruled in favor of returning the child to the United States under the principles of the Hague Convention. It determined that the father's action of bringing the child to India without the mother's consent was a violation of the mother's custodial rights.

The Supreme Court emphasized the application of the Hague Convention, which India had ratified in 2003. According to the Convention, wrongful removal of a child from their habitual residence (in this case, the USA) to another country (India) is unlawful if the other parent has custodial rights and has not consented to the relocation.

The Supreme Court directed the return of the child to the U.S., underlining the importance of upholding the Hague Convention in international child abduction cases.

**Significance:**

This case is a prominent example of how the Indian Supreme Court applied the Hague Convention principles in resolving international parental child abduction cases. It highlights India's commitment to preventing wrongful child removal across borders, ensuring that children are returned to their habitual residence unless there are compelling reasons not to do so.



### **Neha Soni v. Arvind Soni (2011)**

*Flow: Delhi HC -> YES DBHC -> SCI, Sr. Advocate: Mr Mukul Rohatgi*

A notable example of international parental abduction where a child was brought from the USA to India, which reached the Supreme Court of India.

#### **Case Background:**

In this case, a mother, Neha Soni, who was an Indian national, had been living in the United States with her husband, Arvind Soni. After a marital dispute, the husband took the couple's child to India without the mother's consent, effectively preventing her from exercising her custodial rights over the child. The mother sought to have the child returned to the United States.

Neha Soni filed a petition under the Hague Convention on the Civil Aspects of International Child Abduction, which both India and the United States are signatories to, seeking the return of her child from India.

#### **Supreme Court Ruling:**

The Supreme Court of India, in this case, applied the provisions of the Hague Convention to determine whether the child's removal from the U.S. to India by the father was wrongful. The Court noted that the Convention mandates that a child should be returned to their habitual residence if taken from one country to another without the consent of the other parent, in this case, the mother.

The Court ruled in favor of the mother, directing the return of the child to the United States. The judgment emphasized the importance of the international law governing child abduction to ensure the protection of the custodial rights of parents and to discourage wrongful retention or removal of children across borders.

#### **Significance:**

This case is an example of how the Indian courts handle parental abduction cases under international law, specifically applying the Hague Convention, to safeguard the rights of the left-behind parent and the best interests of the child. It also illustrates how the Indian Supreme Court enforces international treaties to resolve cross-border parental child abduction disputes.

The case highlights the legal processes that ensure the child's return to the country of habitual residence when parental abduction occurs, protecting both the legal rights of parents and children's welfare.

**Shilpa Sharma v. Sanjay Sharma” (2015)**

Flow: Delhi HC -> YES DBHC -> SCI Sr. Advocate Mr. R. R. K. V. S. Gopal

An example of an international parental kidnapping case in the Supreme Court of India.

**Case Background:**

In this case, the issue involved the wrongful removal and retention of a child by one parent in a foreign country, in this instance, the United States. Shilpa Sharma, the mother, sought the return of her minor daughter who had been taken to the U.S. by the father, Sanjay Sharma, without her consent. The mother argued that the father had violated the custody arrangement under Indian law, which amounted to parental abduction.

**Supreme Court Ruling:**

The Supreme Court ruled that the wrongful removal of the child violated the mother’s custodial rights, and it invoked the Hague Convention on the Civil Aspects of International Child Abduction, which both India and the U.S. are parties to. The Court emphasized the importance of ensuring that children are returned to their habitual residence when they are wrongfully taken to another country.

The ruling underlined India’s commitment to the Hague Convention, as it ensures the swift return of children involved in international parental abduction, protecting the custodial rights of the parent left behind.

**Significance:**

This case is significant in understanding how India applies international conventions on child abduction, particularly in situations where one parent wrongfully takes the child across borders, ignoring the custody rights of the other parent.