REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

LAHARI SAKHAMURI V. SOBHANA KODALI (2019)

BENCH: Mr. Justice N.V. Ramana, Mr. Justice Mohan M. Shantanagoudar & Mr. Justice M.R. Shah

DECIDED: March 15, 2019

RATIO DECIDENDI & PRECEDENTIAL CRUX:

In inter-country parental abduction cases, doctrine of comity of courts must yield to the paramount welfare and best interest of the minor child.

1. Factual Matrix & Background:

The mother brought two minor US citizen children to India in violation of custody proceedings pending before a US court. The father filed a habeas corpus petition before the High Court seeking the repatriation of the children to the US based on the principle of comity of courts.

2. Substantive Legal Questions Framed:

Whether Indian courts must routinely order the repatriation of children brought from abroad based on foreign court decrees, or whether domestic courts must independently assess the child's welfare.

3. Analysis & Ratio Decidendi:

The Supreme Court three-judge bench held that India is not a signatory to the Hague Convention on Civil Aspects of International Child Abduction. Therefore, the principle of comity of foreign courts cannot override the paramount consideration of the child's welfare. An Indian court exercising parens patriae jurisdiction must conduct a substantive inquiry into the best interests of the child before directing repatriation.

4. Principles Enunciated:

- 1. Comity of foreign courts must yield to the paramount welfare of the minor child.
- 2. India's non-accession to the Hague Convention requires independent welfare inquiry.
- 3. Repatriation cannot be ordered if it would cause psychological or physical harm to the child.

5. Practical Litigation Implications:

- In international custody disputes, build a comprehensive evidentiary record demonstrating the child's rootedness, schooling, and comfort in India to oppose summary repatriation.

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[SUPREME COURT BENCH]

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