

IN THE CENTRAL FAMILY COURT

[2024] EWFC 202 (B)

First Avenue House

42-49 High Holborn

London

Before HER HONOUR JUDGE ROBERTSON

IN THE MATTER OF

MG (applicant)

-v-

SN (Respondent)

The applicant appeared in person, assisted on 22 and 23 February 2024 by George Sayers, Qualified Legal Representative and on 15 and 16 July 2024 by Mehtab Malhotra, Qualified Legal Representative.

On 22 and 23 February 2024 Alexander Scott-Phillips of Counsel appeared on behalf of the Respondent, and on 15, 16 and 17 July 2024 Fatima Faran of Counsel appeared on behalf of the Respondent.

JUDGMENT

Handed down in draft on 17 July 2024

Finalised by the judge on 23 July 2024

WARNING: This judgment was delivered in private. The judge has given leave for this version of the judgment to be published on condition that (irrespective of what is contained in the judgment) in any published version of the judgment the anonymity of the children and members of their family must be strictly preserved. All persons, including representatives of the media, must ensure that this condition is strictly complied with. Failure to do so will be a contempt of court.

Parties and applications

1. The child in the application is H, who was born on the 26 May 2021 so who is now 3.
2. The applicant father is MG. He is a litigant in person but has been assisted at this hearing firstly by George Sayers, and then by Mehtab Malhotra, both qualified legal representatives who cross-examined the mother on his behalf.
3. The respondent mother is SN who was represented by Alexander Scott-Phillips of Counsel at the first half of this hearing, and by Fatima Faran of Counsel at the second half.

Background

4. The parents' relationship began in 2019. They met on a dating site online, and after telephoning each other for a few weeks, they met in person. Their relationship developed and in early 2020 the mother moved in with the father, who lived with his mother, that is to say the paternal grandmother, LJ. In February 2020 they got engaged, although they have never married. They continued to live together and sometime in mid-late 2020 the mother became pregnant. H was born on 26 May 2021 and lived at home with his mother, father and paternal grandmother.

5. The parents give starkly different accounts of the next few months. The father says he thought their relationship was good but the mother was wearing herself out by breastfeeding H continually. The mother says the father abused her, controlled her and was aggressive and angry with H. A crisis came on 23 September 2021 when, according to the father, the mother was behaving erratically, and the maternal grandparents came to the house to see her. There is a dispute about what happened next but the father called the police. When the police arrived they eventually sent the maternal grandparents away, and spoke to the other three adults separately. The mother, when seen alone, made allegations of rape against the father. The police were concerned about that: but they were also concerned about the mother's presentation, so much so that they took her in a police van to hospital where she was sectioned under the Mental Health Act. Meanwhile, the father was arrested. The mother was quite quickly placed in the Bethlem Mother and Baby Unit in Beckenham so that H could be placed with her. She was diagnosed with severe post-natal depression with psychosis. She was treated with antipsychotic and antidepressant medication. She came off section about three weeks later, on 14 October 2021, but stayed on as a voluntary patient. She and H moved from there to a refuge in or around November 2021. She was moved to a flat at a confidential location in January 2022 and she and H have lived separately from the father ever since.
6. The father meanwhile was bailed, and has been awaiting his trial ever since. He continues to live at his mother's house.

History of proceedings

7. When the mother and H moved out of the father's home, the father initially made some requests for contact with H. The mother says she experienced this as abusive, and so she applied for a non-molestation order against the father, which was granted without findings being made. The father then had no contact with the mother or with H until March 2022 when contact resumed in circumstances which are disputed. It is not in dispute that H did then see his father for the next few months, but in September 2022 the mother blocked the father's number. She says this is because the father threatened to remove H from her. The father denies that. In late September 2022 there was an incident involving sexual activity between the parties, the nature of which is disputed and which forms one of the allegations within this case. Following

that incident, the mother stopped H's contact with the father. The father on 23 November 2022 made his application to this court for a spending time order and a prohibited steps order to prevent the mother relocating with H.

This hearing

8. The mother has made a number of allegations against the father within these proceedings and this is now the fact-finding hearing in relation to those allegations. The case was originally listed as a three-day fact-finding hearing in February 2024, and it was anticipated that I would determine the allegations at the end of the three days and then make directions in relation to welfare. I heard two days of oral evidence, comprising evidence from the mother, the paternal grandmother and the father. During that evidence it became clear that the father's criminal trial for rape and sexual assault was scheduled to begin a mere week after the end of the hearing I was undertaking. Those allegations match exactly with a number of the allegations I am asked to determine. It appeared from the evidence of the witnesses that there were various pieces of evidence which this court had asked for which had been made available in the criminal trial but were not available to this court. These included the body-worn camera footage from the day the mother made her first allegation of the rape, the download from the father's telephone showing texts and messages relevant to the state of the relationship, and a statement given by the mother's friend Crystal about the mother having told her about the rape allegation. Given the proximity of the criminal trial, and given the better position in terms of evidence in the criminal court, I decided to delay my findings until the results of the criminal trial were known.

9. Unfortunately, the criminal trial was then adjourned with a new trial date not likely for a year or so. I decided this case could not wait so long and so I made directions for the missing evidence to be supplied to this court, and for the fact-finding hearing to be concluded as quickly as possible. I obtained a listing for 15-17 July 2024. Unfortunately I had to release the father's QLR and the mother's Counsel. Whilst that was unsatisfactory, I had to balance that against the inevitable very lengthy delay which would occur if I adjourned the matter again. I concluded that the lack of continuity could be mitigated by the provision of full transcripts of the first two days

of evidence, and that with that mitigation, on balance it would be more harmful to allow a long delay to await representatives and listings availability than to proceed with new representatives and with transcripts. I therefore carried on with the hearing, with new representatives.

10. Thus, I have heard a total of four days of oral evidence. Both the February and the July segments of the hearing were in person and screens and separate waiting rooms were available for the mother throughout. Questions were put to her by Qualified Legal Representatives on behalf of the father. The mother speaks good English but it is her second language. She did not ask for an interpreter on the first day of the hearing. In his written submissions her counsel comments that “the need for an interpreter had not been raised at previous hearings and certainly her English was very competent”. I agree: and yet there were some elements of her evidence which appeared contradictory – for example her claim in one sentence that the father had forced her to marry him and in the next that she had not married him. She said this more than once, and said it quite definitely. It did not make sense and I did wonder whether there was a translation problem. At the end of the first day she asked for an interpreter and I was able to arrange one for the remainder of the hearing. That helped, but did not wholly solve the problem as some of the mother’s answers remained confusing. Nevertheless I have in mind that the mother was perhaps not able to give her best evidence on Day 1, and I make allowances for that as I evaluate her evidence.

The Law

11. The burden of proof is on the party making the allegations. Findings of fact must be based on evidence, including inferences that can properly be drawn from the evidence, and not on suspicion or speculation (A (A Child) (No. 2) [2011] EWCA Civ 12.)
12. The Court must decide disputed issues of fact by applying the civil standard of proof. Thus a disputed allegation only becomes a proven fact if it is more probable than not that the disputed event occurred.

13. There is a need to take an overview of all the evidence before a court reaches a conclusion on a disputed issue of fact. In *Re T (children)* [2004] 2 FLR 838 Dame Elizabeth Butler-Sloss DBE as she then was said,

“...evidence cannot be evaluated and assessed in separate compartments. A judge in these difficult cases has to have regard to the relevance of each piece of evidence to other evidence and to exercise an overview of the totality of the evidence in order to come to the conclusion whether the case put forward by the local authority has been made out to the appropriate standard of proof.”

That case was a public law case: but it seems to me that the principle applies equally in a private law case such as this.

14. In this case the mother has pleaded coercive control. In those circumstances I have specifically also considered *Re H-N and Others (children) (domestic abuse: finding of fact hearings)* 2021 EWCA Civ 448, which confirms those well-established guiding principles I have set out above but amongst other guidance, brings a sharp focus to allegations of coercive or controlling behaviour. The need for the court to have an awareness of such behaviours and the ongoing impact they may have upon the welfare of the children of the family after a relationship has ended is the only acceptable complete understanding of allegations of domestic abuse [31, 52].
15. “Coercive and controlling behaviour” is defined in the Family Procedure Rules 2010 PD12J:

“coercive behaviour” means an act or a pattern of acts of assault, threats, humiliation and intimidation or other abuse that is used to harm, punish, or frighten the victim;

“controlling behaviour” means an act or pattern of acts designed to make a person subordinate and/or dependent by isolating them from sources of support, exploiting their resources and capacities for personal gain, depriving

them of the means needed for independence, resistance and escape and regulating their everyday behaviour;"

16. Abusive behaviour is defined by the Domestic Abuse Act 2021 as behaviour which takes place between persons who are personally connected to each other, and which consists of any of the following:

- a. Physical or sexual abuse
- b. Violent or threatening behaviour
- c. Controlling or coercive behaviour
- d. Economic abuse
- e. Psychological, emotional or other abuse

and it does not matter whether the behaviour consists of a single incident or a course of conduct.

17. Re H-N expressly endorses the judgment of Hayden J in the case of F v M [2021] EWFC 4. Although Hayden J indicated that the meaning of complaints of ‘coercive and controlling behaviour’ is unambiguous and requires no definition, he notes the need for recognition of the scope and ambit of the behaviour. ‘Coercion’ will ‘usually involve a pattern of acts encompassing, for example, assault, intimidation, humiliation and threats. ‘Controlling behaviour’ really involves a range of acts designed to render an individual subordinate and to corrode their sense of personal autonomy. Key to both behaviours is an appreciation of a ‘pattern’ or ‘a series of acts’, the impact of which must be assessed cumulatively and rarely in isolation’ [paragraph 4]. At paragraph 60, Hayden J goes on to highlight that ‘it is crucial to emphasise that key to this particular form of domestic abuse is an appreciation that it requires an evaluation of a pattern of behaviour in which the significance of isolated incidents can only truly be understood in the context of a much wider picture’.

18. However, I remind myself that ‘not all directive, assertive, stubborn or selfish behaviour, will be ‘abuse’ in the context of proceedings concerning the welfare of a child; much will turn on the intention of the perpetrator of the alleged abuse and on the harmful impact of the behaviour’ [paragraph 32 Re H-N]. I also remind myself of

the approach taken by Peter Jackson LJ in Re L (Relocation: Second Appeal) [2017] EWCA Civ 2121 (paragraph 61)

“Few relationships lack instances of bad behaviour on the part of one or both parties at some time and it is a rare family case that does not contain complaints by one party against the other, and often complaints are made by both. Yet not all such behaviour will amount to ‘domestic abuse’, where ‘coercive behaviour’ is defined as behaviour that is ‘used to harm, punish, or frighten the victim...’ and ‘controlling behaviour’ as behaviour ‘designed to make a person subordinate...’ In cases where the alleged behaviour does not have this character it is likely to be unnecessary and disproportionate for detailed findings of fact to be made about the complaints; indeed, in such cases it will not be in the interests of the child or of justice for the court to allow itself to become another battleground for adult conflict.”

The allegations

19. I turn then to the allegations. I have in mind that allegation 2 is an allegation of coercive control and stalking behaviour. That is the backdrop against which I will consider the individual allegations in the schedule, and that is very important because I must, as I consider the individual allegations, have in mind the question whether the behaviour complained of forms part of a wider narrative of coercion or control. With that in mind, I turn to the first allegation.

20. *Allegation 1(a): The father was verbally abusive to the mother, telling her “I told you fucking 100 times that these knives are sharp and never use them”.* The mother makes this allegation in her second statement, in which she gives further details, that she had been going to chop onions but when the father saw her and made the comment, he took the knife from her and pushed her away. She said she was in tears because of how aggressive the father was being to her. She said the paternal grandmother witnessed the incident but the paternal grandmother in her oral evidence denied ever seeing any incidents of concern between the parties. The father in his statement said he never stopped the mother from using any knives. He said he had some incredibly sharp Japanese chef’s knives which he did not really use as they were not practical. He denied grabbing the knife, or making the comment saying she could

use any knife she wanted and he would never try to grab a sharp knife from someone. In oral evidence it was put to the mother that her account lacked detail. It was not clear when the alleged incident happened, how much force was used, what part of her he pushed. The mother remained constant in her evidence saying that it did happen, that he used force to push her and that she had started crying. It seems to me that I have no reason to prefer one person's account over the other's on the basis of that evidence on its own, and so I cannot come to a view on that allegation until I have considered the wider canvas.

21. Allegation 1b: The father would be verbally abusive towards the mother and belittle her. In her statement the mother says this happened throughout the relationship, saying that she was useless, only good at being a model, that she was a “fucking Persian whore” (the mother is of Iranian descent). She says she felt belittled and her confidence fell. She relies on an admission made by the father that in everyday life he does swear.

22. The father does accept that he swears, but says he never does so in anger or at anyone. He denies verbally abusing the mother. He says he would tell her how amazing she was, how strong she had been, how proud of her he was. He said it was the maternal grandparents, and in particular the maternal grandmother who would undermine the mother; that the mother several times said that they must not be told that the parties were seeing each other again, and on one occasion that the maternal grandmother told the mother she would not be able to cope with being a mother. The mother relies on various documents she has exhibited to her statement showing that she had sought help from a number of organisations including the Local Authority, the Early Intervention Service, Victim Support, and an unnamed organisation which became involved following a referral from Solace Women's aid. As an overview, they refer to her as being a victim of domestic violence, being afraid of the father, feeling helpless, feeling guilty, and being at high risk from the father. They refer to her accessing the Crisis Single Point of Access 24 hour support line numerous times in October and November 2022. I accept that these letters show that the mother had been telling a broadly consistent narrative to professionals although it is not clear from any of those letters that she went to them before 2022. It was put to her that none of these organisations had carried out their own investigations and she accepted that. It was

then put to her that the letters did nothing more than reflect what she had told the organisations. The mother accepted that too. This was one moment where I was not sure the mother had wholly understood what was being put to her. That said, there is no evidence that any of these organisations did carry out their own investigations, and they are all clearly drafted in a way which shows that they are predicated on an unquestioning acceptance that the mother's allegations are true. In those circumstances it seems to me those letters are best seen as evidence that the mother has told a consistent narrative since some point in 2022 rather than as evidence that the assertions contained within the letters are true.

23. The paternal grandmother was living in the house with the mother and the father. It is argued on behalf of the father that if he were constantly belittling the mother, his own mother would have seen it. In fact the paternal grandmother's evidence is that the father treated the mother like a princess and she never heard arguments between the parents or saw anything between them that caused her concern. In response to that the mother's counsel argues in effect although not in quite these words that the paternal grandmother would say that, wouldn't she. She and the father have a close relationship. She came to court every day to support him. She stands squarely on his side, supporting him, and I do not criticise her for that. However, her lack of objectivity does reduce the weight I can give her evidence. I note that her evidence is remarkably consistent with the father's evidence, over quite a broad canvas.
24. Focusing back, then, on allegation 1(b), that the father was verbally abusive to the mother and belittled her, I turn to the other evidence I have. The father has provided a print-out of the WhatsApp messages between the couple from 22 September 2019 till 4 August 2021, in other words spanning the period of the couple getting to know each other, the mother moving in, becoming pregnant, having H, and finishing the month before she had her breakdown and was taken to the hospital by the police.
25. There is a remarkable wealth of information in this document. The mother says she does not remember sending some, or many, of these texts and says that the father has forged some of them – though she is not able to say which ones. I am not persuaded by that. At a conservative estimate there are at least 7,500 texts. The mother admits sending some of them. They are all in the same voice, they are not repetitive except in

point of style, they deal with the minutiae of life on a daily basis. It would be a work of extraordinary accomplishment to fake or forge this document, or substantial elements of it. It would be akin to writing a novel, and writing it in a voice which assured, natural and with just the right amount of consistency and variation. Writers practice for years to achieve such a thing. Although the father is clearly a capable man, I have seen no evidence that he is capable of that. Furthermore there is no evidence that he has faked or forged the entries. I reject that allegation, and treat the print out as a print out of the genuine texts.

26. What they reveal is a consistent, affectionate, supportive relationship. Many of the messages contain declarations of affection, terms of endearment, enquiries as to whether the other person has slept well or whether their headache is better, expressions of sympathy when something has gone wrong, jokes about collecting waffles from the post office, practical arrangements about buying groceries – in short all the countless communications that go to make up a loving and supportive relationship. They are punctuated always with emojis of love hearts and kisses being blown, pictures of engagement rings and lips. There are thousands and thousands of these emojis, and all of these emojis and messages flow in both directions.
27. What I have not found in the messages is any message from the father to the mother in which he is in any way angry or abusive. Not one. It seems to me unlikely in the extreme that the father would be in the habit of calling the mother a “Persian whore” and belittling her when face to face, and yet behave so differently on such a consistent basis over the course of nearly two years. He told me in oral evidence that he called the mother his “Persian princess” because that had been her dating name on the website on which they met. That is borne out in the text messages – he does call her a princess, and it was also borne out by the father’s mother in her evidence who volunteered that that was what he used to call her. The mother is not asking me to make a finding about a specific occasion or insult in relation to this allegation. She is asking me to make a finding about the character of the relationship, namely that the father would be verbally abusive to her and belittle her. On the evidence before me, the reverse appears to be true. The evidence suggests that the father adored her, and told her so often, and supported and complemented her. **I therefore do not make the finding the mother seeks in relation to this allegation.**

28. Allegation 1(c): The father grabbed the mother by the arms on 23 September 2021 and threatened her saying “You know the consequences of you telling everyone what has happened. I am going to destroy you and your family”. 23 September 2021 was the crisis night when the mother was sectioned and the father arrested. The mother’s evidence is that earlier in the day, the father had lied on the telephone to the maternal grandmother and said that the mother was unwell. As a result the maternal grandparents were concerned and came to the house. The father then took H from the mother and gave him to his grandfather for a cuddle. The father then came back upstairs to where the mother was and it is then that it is alleged he made the remark. In oral evidence the mother maintained the allegation. When told it lacked detail she replied with feeling “maybe but I could write a book about it”. She denied that she had been unwell that day, saying she was in shock because of what the father had threatened. She said that the father was always threatening that he has the whole of East London on his side and that he would tell everyone the truth. The mother clarified that she took this to mean he would make public photos and videos of the mother’s sexual life.
29. The father’s account is very different. He says that in the days preceding this incident the mother’s mental health had declined. This was against the background of her constantly and almost obsessively breastfeeding H and not getting any sleep herself. This had become a bone of contention between them. By this stage he said her mental health was seriously affected. She had woken him in the morning of 22 September 2021 to tell him she was scared, that the police were after her for “all the bad things she had done”, and that people were following her. The next morning, 23 September 2021, she had got up early and when he found her in the kitchen she had wet herself because she thought the police were watching her through the window and she was too scared to go to the toilet. He said the mother was like a zombie. He spent the day trying to get her to call the mental health crisis line but she was scared in case it resulted in H being taken away. The maternal grandmother had been ringing the mother during the day but the mother would not answer. When he asked her why, she said because her parents were dead. He eventually texted the maternal grandmother to say that the mother was not well – he says he did so with the mother’s consent. The maternal grandmother rang the father, and he did answer his phone. The mother very

reluctantly took the call and a telephone call ensued in which the mother said very little. As a result the paternal grandfather wanted to take the mother and H home to his house for a few days, but the father was against that. He felt the mother's mental health required professional help at that point, not a visit home to her parents. About 45 minutes later the maternal grandparents arrived at the house. The father took H down to them and handed H over for a cuddle. Matters then became heated: the grandparents were insistent on taking the mother and H home. The father was insistent that H wasn't going anywhere. The mother was standing like a statue. According to the father, the grandfather then refused to hand H back, and so the father called the police.

30. The grandfather did then hand H back. The police arrived and spoke to the mother separately, and it was then she made her allegation of rape. The police were concerned about the mother's mental health and they took her to Newham Centre for Mental Health where she was sectioned. They arrested the father for the alleged rape.
31. I have looked at the written police record of the incident. It records that the mother was taken outside into the garden and "it quickly became clear she was suffering from mental issues". It was, the police say, deemed that she required medical attention as a priority. I have also viewed the body work video footage of that interview in the garden, and much of the subsequent police videos of what ensued inside the house. The mother was indeed like a zombie. In her oral evidence she described herself as being "like a dead body". She sat staring, not reacting to questions, just occasionally managing to say something but not often. The police officer interviewing her has to work hard to get her to answer any of his questions at all, asking them repeatedly and gently and trying to try to get an answer. Her answers are not always coherent. It is plain to any observer, whether medically trained or not, that all is not well with her.
32. It was argued on behalf of the mother that the reason she was behaving like that was because she was scared. The person she was scared of was the father, and she was scared because he had threatened to release videos of their sex lives. That fear was particularly great to the mother because of her Iranian heritage, where publication of such material could lead not only to shame and humiliation but to honour based violence and even death. It is said that the mother was too afraid to speak out about

her fear of the father to start with, and only opened up after her parents arrived to reassure her by their presence. Much was made of a moment in the evening when the police officer offered to bring the father do her and she did not respond.

33. I find that argument not to be borne out by the evidence and therefore unconvincing.

Whilst it is right that on the videos the mother often said she was scared, she did not say she was scared of the father. In oral evidence she said what she was scared of was losing H, and that is borne out in the video tapes where she again and again raises her concern that H will be taken away, and the police officer has to reassure her constantly that that is not the plan. The mother's parents were already there, on hand to give reassurance, when the police arrived. What the mother actually says is that her parents want to take her back to Iran and she doesn't want to go, and asks if she can speak to the father. She says she wants to keep the relationship, that she wants to fix everything, to be together with the father and the baby and make a good life. She describes the father as being on her side and wanting to help her, and says they want to get a house together and bring up their child. There is more in the same vein. The moment where she did not say yes to the offer of the father being brought in is just one moment of many where she did not answer. There were also moments when she asked for him. Given her general bewilderment that evening I can not draw conclusions from the fact she did not accept the offer to have the father brought in at one particular moment.

34. It is also true that she says that the father has forced her to have sex, and I will come to that evidence later. Some of what she says is very hard to understand, for example when she talks about wearing a mask and her whole life being a lie. After being there for some time, the police officer says to the father that he is very concerned about the mother's mental health, that the father should call the mental health crisis line because the mother needs help, and says that the mother's main concern is losing the baby and losing him (the father). Having watched the videos, I agree with the police officer's summary. My overriding impression is of a woman who is extremely unwell, who says one thing at one moment and another at another moment, and who makes no sense in some of what she says. She presents as utterly bewildered and unable to

communicate effectively. In one clip she and the father are in the same room together and she does not present as being frightened of him.

35. There is a later record from the police when they came to follow up the case at a later date and spoke to Dr Ashokan. In oral evidence the mother confirmed that Dr Ashokan was one of the treating doctors on her ward. Dr Ashokan told the police that the mother had been diagnosed with severe post-natal depression with psychosis and had been treated with Olanzapine (an antipsychotic) and sertraline (an antidepressant). There is no dispute that the mother was held on section until 14 October 2021.
36. The mother's own evidence about whether she agrees that she was mentally unwell on the night of 23 September 2021 is unclear. A letter from her treating consultant psychiatrist about a consultation on 5 May 2023 notes that she said then that she was unconvinced that she ever truly had a manic episode, and said that she felt that the stress of her ex-partner controlling her life as he had explained her breakdown. She accepted she was unwell at the time but did not feel that she experienced psychosis. She took a slightly different line when she was asked about it during the February hearing, when she was clear that she did not think she was, or had been, ill at all. I clarified that on the second day when an interpreter was present. At that hearing she said she was not unwell but was merely in shock at the father's threat. I do not consider that mere shock would have resulted in her being sectioned and diagnosed as she was. In the July hearing the mother's case changed substantially, without her apparently noticing. She said that the reason she was presenting "as a dead person" was because the father and his mother had been poisoning her food with their own mental health medicine. She also said, in apparently conflicting oral evidence, that she did accept the diagnosis that had been given to her.
37. In my view it is clear from the totality of this evidence that the mother was indeed extremely mentally unwell on the night of 23 September 2021. I reject the suggestion that she had been poisoned by the father and his mother. I have seen the father's medical records and he did not have any mental health medication in 2021. In any event there is simply no evidence to support the mother's claims, and her presentation on the night is adequately explained by the diagnosis she subsequently received of post-partum depression and psychosis.

38. That in itself supports the father's case that he had been worried about her for some days and had in the end told her parents of the concerns, resulting in them coming round to try to help. The mother alleges an ulterior motive against the father: that he called the police in order to have the grandparents removed in some way so that he could have her, the mother, all to himself. I find there is no evidence to support that. When the police arrived there is no evidence he tried to get rid of the grandparents, or made allegations about them to the police save for the allegation that the grandfather wanted to take H home with him and for a moment would not give H back. All the evidence is that the father's account is true. I therefore accept that the mother was unwell, and that the father called the police because the grandfather momentarily refused to hand H back, and that he did not call the police for any ulterior motive.
39. Having established the father's motives for calling the police and the mother's mental state at the time, I return to the mother's allegation that the father grasped her arm and threatened her and her family with destruction if she told people what had happened.
40. I find that there are some elements of the mother's account which are simply unsustainable. She says that the father lied to her parents saying she was unwell. I find that was not a lie. She was unwell. I therefore find the mother's allegation that the father lied about that is wrong.
41. Looking at the narrative of the event, the mother's account is not narratively coherent. She offers no reason, nor can I see any, why the father would text the mother's mother saying she was unwell if she was not unwell. She offers no reason why the father would come back up the stairs and threaten to release her sex tapes. That comes out of the blue in the mother's account with no explanation of what it was the father was allegedly trying to stop the mother from saying. By contrast, the father's account is coherent. He clearly describes the build-up to the acute mental health episode, and indeed the whole of his narrative in relation to other matters bears it out. It is his wider case that the mother was breastfeeding H beyond reason and they were all exhausted and at their limit because of it. They had even sought help from the GP in

relation to it – that much is agreed. That is a background which is consistent with the details the father gives of this incident. It is clear that the father’s preoccupation at that time was the mother’s mental ill health and trying to get her treatment. He knew she was unwell. It would have been fruitless to tell her not to mention “the truth” because she was not responding to conversations with her mother, or with anyone else at that point.

42. The mother made her allegations of rape that evening to the police. The father’s alleged threat was that he would destroy her if she told anyone “what had happened”. I note that the father has not, since then, reacted in a way which was vindictive or vengeful. He has not released any sex tapes (which he says he still has), and he has not sought to destroy her in any other way. In fact it is clear from the subsequent text messages between the parents that despite the rape allegation he continued to try to be on good terms with the mother and to try to see H. That would be surprising if he had indeed threatened her to prevent her saying anything prior to her making the allegation of rape. In all his dealings with this court he has been loath to say any bad thing about the mother and attributes her allegations to her being confused and unwell. He goes so far as to say that she believes the allegations, saying that for the mother, the things she is describing are very real – “as if on a vivid surround-sound television”. In other words he does not accuse her of lying. He is not angry with her. All the evidence is that threats and vengeance are simply not his way of doing business, and nor is there any evidence from his subsequent actions to suggest the threat was made. It would have been out of context and pointless given the mother’s mental state at the time. I consider it most unlikely that he grabbed the mother’s arm and threatened her as alleged, and therefore **I do not make the finding sought by the mother.**

43. Allegation 2 is the allegation of coercive control and I will come back to that at the end.

44. Allegation 3 contains three allegations of sexual abuse, namely one alleged rape, one alleged sexual assault and one alleged threat to release sex tapes and photos of the mother. I will take them in that order, which is chronological order (though not the order pleaded in the schedule). The allegation of rape is an allegation that in the

summer of 2020 the father had sexual intercourse with the mother without her consent. In her statement the details given by the mother are that she says the father pushed her aggressively on the bed and stated “you know how much I missed you”. He was kissing her and was on top of her. The mother said “I really don’t want to do anything” but the father disregarded her and forced himself on her, having sex with her while she kept stating “I do not want to do it”. In oral evidence I clarified with the mother that the incident she is referring to was in the summer of 2020, which was before H was born and before she was pregnant with H. She confirmed that was right. I asked her why she had chosen to have a child with the father after he had treated her in that way and she said the pregnancy was an accident. The mother did not report the incident at the time, but reported it on 23 September 2021 when the police came to her house and she was sectioned. She was, as a result, interviewed by the police after coming out of hospital, in December 2021. In her police interview the mother gives a much more detailed account and I give due weight to the fact that her allegations in that interview are detailed and vivid. However the inconsistencies between her December 2021 account and her account in her statement and in oral evidence are so significant and large that I am left wondering whether she was describing a different incident when she was talking to the police. In her police statement she said it happened in June or July 2021, not 2020, and that she was in pain from having had stitches when H was born. That is incompatible with her earlier account. There are, however, features of the account which suggest it was the same incident. In both accounts it begins with the mother sitting on the bed and the father then starting to kiss her and then getting on top of her. In both accounts the mother attributes to the father a comment about missing her. In the statement version he says “you know how much I missed you”. In the police version he says “I really miss you and I want to have sex with you”. I am left wondering whether this was the same event, whether it was a different event, or whether the mother is muddling up events. She has, I note, told the police that the father forced her to have sex four or five times so such muddling would be possible.

45. Another difficulty with the mother’s evidence is that according to the police record on 2 November 2021 the mother told the police that she did not wish to go to court or give evidence, and that although the father would put mental pressure on her to have sex he “never physically forced her to have sex”. The mother confirmed to me that

she did tell the police that that day. She said she was at that time fearful the father would separate her from H. However she also confirmed that she was not in touch with the father at this time and he was not threatening her at that time. She was no longer under section, she had come out of hospital, she was taking her antipsychotic drugs and was in a refuge so she was in a good place and a safe place when she withdrew the allegation. Further, on 28 November 2021, just a few weeks later, she told the police that she did wish to attend court and would support a prosecution. She had still not been in touch with the father at this point and it is difficult to see what has changed to make her not frightened of him on 28 November when, by her account, she was frightened of him on 2 November. I am concerned about the mother's vacillations. I would be less concerned if, on 2 November, she had only said she did not want to support a prosecution. But in fact she withdrew the allegation altogether and there is no evidence that that was because of any pressure by the father.

46. There is a third difficulty with the mother's version of events which is the subsequent progress of the relationship as I will set out below in my consideration of the sexual abuse allegation. It is clear that the relationship did recommence at least for a while and it is hard to see why the mother would let that happen if she had been raped as she says.
47. The father has always denied the allegation of rape. He says he has never forced himself on the mother and that they have only ever had sex by consent. He says her description of the event is impossible as he has a serious heart condition which prevents him from being on top of her, as is alleged by the mother. I have seen the father's medical records and he has indeed had a number of very serious medical conditions, including heart failure in 2017. He says the mother is making these allegations not because she is lying but because she believes them, because of her mental health condition.
48. I cannot say whether the mother's psychosis is wholly gone, or whether elements of it remain. I have not got up to date psychiatric evidence about that. The most recent information I have about the mother's mental health is from a psychiatric report on the mother, dated 9 May 2023 which states that the mother had responded well to treatment and that the psychiatrist was not aware of any return of the psychotic

symptoms. However the letter goes on to say that the mother had, at the end of April, taken herself off Olanzapine. It says they discussed with the mother the potential risks of that, and says they would have wished her to taper down more slowly. The mother preferred not to do that. The mother's present situation, therefore, is that she has taken herself of Olanzapine not in accordance with medical advice. I am unaware of any recent assessment of her mental health to say whether that has been a success for her or not.

49. Having looked at the evidence and the over-arching narrative, I come to the view that **the mother has not proved the allegation that the father raped her in the summer of 2020, or indeed 2021 if that is the incident to which she is referring.** My reasons are

- a. that there are too many inconsistencies in her account;
- b. that she subsequently told the police that the father never forced her to have sex. There is no evidence the father pressurized her to say that
- c. the course and nature of the subsequent relationship does not support the contention that the father raped the mother
- d. I am concerned about the way in which the allegations were first made. They were made at a time when the mother was in the grip of an acute psychosis. She was bewildered and confused about many things. The police officer that night trod a difficult line between trying to give her the space and confidence to make allegations if she had any and putting words into her mouth. He had a very difficult job, trying to discern whether a person in the grip of a psychotic episode was reporting a crime. He did his best to encourage her to talk, but she was not in my view capable of talking in a coherent way. In his anxiety to ensure that she had the opportunity to report anything that needed to be reported, he asked her questions over and over again, some of them open, some of them leading such as "and were they the rooms he forced you to have sex in?". The mother's response to that was "I don't know", underlining just how bewildered and confused her responses were. The fact that the allegations arose in this way does not mean that they are not true: but the allegations could equally have been a product of the mother's psychosis and there is all the more need to treat the allegations carefully.

50. It may be argued that the mother has no motive for making a false allegation against the father. I must say that when she gave oral evidence about it, and about the other sexual allegations, she seemed sincere, and traumatised in some way and distressed by the evidence she was giving and having to recall events. The events did seem very vivid and real to her. It may well be that she believes they happened. But there was another side to her evidence as well. As her evidence went on it became less and less credible. Often she answered an entirely different question from the one that was asked, and did so repeatedly so that questions had to be asked three or four times. Many points which undermined her case, such as the fact that she had on 23 September 2021 said that H was safest either with her or with his father, she has not answered yet. Her evidence was in many places internally incoherent. At one point she accused the father of threatening to kill the grandparents and then making them leave the country. There was one instance where she said clearly she did not have a mental health history, and when she was shown documents showing that she did, she did not answer the questions on that discrepancy. If so, I still do not find on the balance of the evidence that they took place in the way she suggests. It may be that the memory of her psychosis is affecting her memory, or that she perhaps now has some low-level renewed psychotic symptoms given her decision to come off Olanzapine in a way not supported by her mental health team. I make no findings about those matters save to say that there are possible explanations, other than the mother lying, to explain why she might make these allegations. Be that as it may, she has not discharged the burden of proof in relation to the rape.

51. Allegation 3b: the father threatened to release intimate videos of the mother if she decided to leave the relationship. It is common ground that intimate videos were made of the parties. The mother says that she never consented to them being made. In her statement she says she made this threat in early 2021. In oral evidence she said he made the threat on 23 September 2021, the night the police came. In her police interview on 19 November 2021 she told the police that the father had filmed her performing sexual acts, some of which she said were consensual, some which were not. On 7 December 2021 she told the police that he threatened her with the release of the videos in order to force her to perform sexual acts which she did not want to do. She did not, at that time, give any date for when the threat was alleged to have been

made. She also said she really did not want to do the videos but did it to make the father happy and because she had no other option because she knew he would become aggressive.

52. The father was interviewed by the police about the allegation on 29 September 2021. He agreed that there were photos and videos but said they were taken by consent, and that some of them were sent by the mother to him. He told the police he would never disclose them. The police took his phone and reviewed the videos and pictures. The police note says “In these videos and pictures it is the opinion of the OIC the victim seems to be consenting and in some of the videos and images the victim is taking them herself participating in sexual acts”. I put this evidence to the mother in oral evidence and she accepted that maybe she did take one or two of the videos herself but said that even with that the father was instructing her what to do. She accepted that in one or two of the videos she was consenting to the video being made. Having listened to the mother’s response to the police evidence, I come to the conclusion that the account originally given to the police (which is the same as the account given originally in oral evidence to this court), namely that she did not consent to the videos, is not wholly accurate. It does not seem to me as simple as saying “he forced me and I had to do it”. The mother’s evidence is not reliable on this point.
53. That, however, is a separate question from the question of whether the father threatened to release the videos to her family. The mother’s allegation is that he made that threat when he went up the stairs to get her on 23 September 2021 to take her down to her parents. She says he made the threat as they were coming down the stairs. He held her arms and said “you know the consequences if you tell the truth to everybody”. The consequences were, she alleges, that he would release the videos and shame her. I asked her in oral evidence during the February hearing to explain the alleged threat. What was the truth that she was not allowed to tell? She answered firstly that the father was always belittling her, and that he had the whole of East London on his side. That did not seem to me to answer the question so I asked her again what the truth was that she was not allowed to tell. She said “that I am a Persian whore”. Again, that did not make sense to me. I formed the view that at that time, in February 2024 during the first part of the fact-finding hearing, there was no clear idea in the mother’s head of what this “truth” was that she was not to tell. It makes no

sense to say that she must not tell everyone she is a Persian whore, otherwise he will release the videos. She did not say in oral evidence that the threat was to release the videos.

54. During the July 2024 part of the hearing the mother's oral evidence was different. She referred to the father threatening that if she said anything he would put videos on social media: however she said that in response to a question about why she told the police she wanted to give the relationship a second chance. In this as in many areas the mother's evidence seemed off the point and confusing. She did not seem to me to be following well the questions she was being asked even despite the assistance of the interpreter. Later in her oral evidence she made a different allegation which I had not heard before, namely that the father had threatened that if she said anything he would kill her and kill her parents and make them go out of the country. Again this was confused, and the tone and content of it bore no relation to the character of the relationship which is evident from the WhatsApp messages and from the way in which the father has approached these proceedings. Right at the end of the hearing it was put to the father on instruction from the mother that the father's threats towards the mother did not appear in the texts because they had been made on the phone. That allegation had not been made before, and by that stage it appeared to me that the mother was making up allegations on the hoof.

55. My sense, having heard and considered all the evidence, is that this was a very confused allegation by the mother, and related to a time when she herself was very confused, not to say mentally unwell. As I have already said, I note that there is no evidence that the father has ever released any of the videos, even although she subsequently accused him of rape, which is a circumstance in which some men would seek revenge. In all the thousands of text messages I have seen I have seen no message which refers to this alleged threat, and no message in a tone equivalent to the tone of this alleged threat. I come to the view that I cannot make the finding sought by the mother: partly because the allegation itself is confused, partly because it does not make sense in the context and partly because there is no external evidence to support it. If anything the trajectory of the relationship in the succeeding months suggests unthreatening behaviour on the part of the father – as I shall come to later in my

judgment. For all those reasons **I do not make the finding sought on this allegation.**

Allegation 3c: that in September 2022 the father sexually abused the mother in front of H

56. The last of the sexual abuse allegations is that in September 2022 the father coerced the mother into wearing lingerie and to show it to H, further that he then groped her while H was going in and out of the kitchen.
57. In order to evaluate that evidence I must consider what I have described above as the trajectory of the relationship. 23 September 2021 was the day the mother accused the father of rape, and was sectioned. The mother and H were placed in a mother and baby unit, and there was no contact with the father. The mother obtained a non-molestation order and there is no suggestion that it was breached in 2021. The mother came off section in October 2021 and came out of hospital and was rehoused a little after that.
58. Contact was not resumed between the parties until March 2022. I have already referred to the fact that at that time the mother withdrew her allegation of rape completely. The father says that contact re-started at the mother's instigation on 16 March 2022 when she posted online a picture of geese in his local park followed by a number of messages of a friendly nature, and then by a phone call from the mother in which she said "Hay, we're here, are you coming?". He says he went to meet them, although he was anxious about the non-molestation order, and that they met, and kissed, and he held H. He says it was the first contact he had had with mother or son for six months.
59. In oral evidence the mother was taken to the bundle page with the image of the geese in the park, and other images the father has exhibited as being photo messages exchanged between them. She accepted that the images shown were images she and the father had exchanged but said the one of the geese in the park had been taken a long time previously, and that some of the images and text messages were made up, in other words faked, by the father. She was asked which images and messages the father had made up and she was unable to say. She spoke at length about the father

making an emoji for her, but that was not relevant to the issue of alleged faked photographs. She was asked about specific text messages, and whether they had been made up, and she said she couldn't say, didn't remember and that she didn't have any memory about them. She did however accept that the overall train of messages was between her and the father.

60. I found her evidence on this point was unconvincing and evasive. It seems to me more likely than not that the images were exchanged as set out by the father. I accept that the mother sent the father the photo of the geese and invited him to meet her on 16 March 2022. I accept that the overture came from her and not from him, and that he went there in response. That finding is borne out by the subsequent text traffic between the two parties which shows a rekindled relationship. The parties were texting each other on a daily, indeed hourly and many times an hour basis. To begin with there are texts about the reunion: the father says "I still can't believe you came to see me today" and the mother answers "did I?". The mother then says she is thinking about the father, she is thinking good things. All of that is on 16 March 2022, the day they met in the park. They texted each other late into the evening and started again early the next morning with the father saying he didn't sleep well, because of "such a big surprise yesterday". The mother replies "I know I even surprised myself". The texts become conversational, about the minutiae of life, what each is having for dinner, what they are doing through the day, expressions of affection. To give a flavour, on 17 March 2022 the parties texted each other all day. The mother sent the father over 150 texts, and the father sent a similar number in reply. The mother sent numerous emojis and images, almost all of them being either love hearts or blown kisses. An additional feature of the messages is that the ones from the mother do not bear her name: they all purport to come from H, as if in some way it is H who is sending the messages. There is however no pretence that that is so: the mother accepts entirely that the messages were from her. The tone is nurturing on both sides. The father talks about how he wanted to help the mother but didn't know where she was. He talks about hoping she got help at the hospital and the mother says they didn't really help and she got herself better. The father says he is still trying to take it all in. There are expressions of love on both sides.

61. In oral evidence the mother explained her actions by saying that at this time the father had 100% control over her and she sent the message because she had to. There is no sign of that in these messages and there is no evidence that the father had been in touch with her at all since her departure from his house on 23 September 2021, and her subsequent acquisition of a non-molestation order against him. All the evidence suggests that he was keeping away. There is no evidence he was contacting her. It is hard to see, in those circumstances, how or why she was 100% under his control. I simply do not accept her evidence on that point.
62. I note from the police disclosure that on 12 April 2022 she told the police she wanted to withdraw from the prosecution because of her own mental health, and said twice that she would never enter a relationship with the father again. On the same date she made 16 calls and texts to the father, beginning at 8.50am with “Morning babe I have an appointment for my wrist. Once I get home I’ll call you” followed by a kiss emoji. I do not consider that she told the police the truth when she said she would never be in a relationship with the father again. It is clear from the texts that she was in a relationship with him, even as she told the police that lie. It was at around this time that she withdrew from the police investigation. I note that in this same conversation with the police on 12 April 2022 she told them she was withdrawing from the investigation of her own free will and nobody had put pressure on her. That contradicts what she has told the court at this hearing. The mother has not been straightforward in her evidence about this. I do not accept that the father pressured her into withdrawing her allegations, given the mother’s own assurance at the time that he did not and given the context of the warm and supportive relationship between the parties at the time.
63. The text message traffic continues over the next few months in a similar vein. The messages become more mundane, talking about how H is, how work is, what data package they are on. The tone is loving and friendly throughout. In August the mother went to Iran to visit family, and there is no sign of the father trying to prevent her or being annoyed that she went: quite the reverse. He wishes her a safe journey, asking her if she is having a nice time, saying it looks really nice, asking what it is like being back after 6 years, saying he hopes she sleeps well. The mother says she will send him photographs, gives him news about H, and sends messages of affection. On 16

August 2022 she flew back into the UK and on 18 August 2022 she turned on disappearing messages. There are, as a result, no further messages in the bundle.

64. I set all that out extensively in order to give a flavour of the character of the relationship in the months running up to the date of the final sexual abuse allegation. In terms of the specific allegation, the mother says this in her first statement: “In September 2022 the Applicant informed me that I had to go and put high heels on and make a show for our child to show our child that I could be affectionate. I declined. The respondent proceeded to rape me in front of my child. My child was crying and scared. After this incident I called the police.”
65. The mother gives further details in her second statement. In that account she says that the father came to her property to have contact with H. She says in this account that he told her to put on sexy lingerie and a black dress, rather than high heels. She says she refused but the father persisted and as he was in her property she was terrified of what he might do. She put on the clothes and the father then groped her and put her hands inside her while H was present. This is obviously different from her initial statement in which she says the father raped her. She then says that the father went into the other room and pleased himself until he finished. That detail is absent from her initial statement.
66. The police disclosure shows that on 26 October 2022 the police received a referral from a mental health nurse who was concerned for the mother due to what the mother had told her. The police went to the mother’s home where the mother made allegations of sexual abuse against the father. At the same time she said she now did wish to support the previous rape prosecution.
67. The police interviewed the mother in relation to the sexual abuse allegations on 1 November 2024. She gives a radically different account. She says that the father asked her to put sexy clothes on and she did so because she was frightened of what he would do if she did not. The father then pushed her back to the cabinet where the kitchen is. She said “Please stop, I don’t want that in front of H”. She alleges that he was playing with her pussy and putting his hand inside her and trying to make her come, and she did not want that. She alleges that she said “can we at least go to the other room for not to be in front of my child?” and he said yes. He then started

pulling her hair, and trying to push himself inside her. She said she did not want that and he said “Le me – I want to come in your face”. She said “please stop” and he stopped. The inconsistencies in these first three of the mother’s accounts are obvious and glaring. The mother’s oral evidence adds little. In it she maintained the allegation of non-consensual sexual touching (she did not mention rape in relation to this incident). She was clear that H was present, that the living room and kitchen are all in one open plan area, and that whilst H was watching television if he had turned his head he would have seen them. She says he came over when the father was touching the mother’s private parts and tried to come between them.

68. On 4 November 2024, three days after she gave the police interview I have just described, she gave a statement to the police saying that she had only withdrawn her involvement in the original rape investigation because the father had threatened her that if the case went to court, everyone would see the videos including her parents. She said she was so frightened and he was really aggressive and told her she must obey him and do what he wanted. She said she was terrified. I have already said that I do not accept that the father threatened the mother with the release of the videos. Nor do I accept that the mother was frightened at the time she withdrew the allegation in April 2022. The WhatsApp messages tell a very different story. In April 2022 the parties’ relationship was newly rekindled and there were tens of messages in both directions each day with expressions of love support and concern both ways for the other person’s health. I do not accept that the mother told the truth to the police on 4 November 2022 about her reasons for ceasing to support the rape prosecution.

69. The father denies the allegation. He says he went to the mother’s house at her invitation. He says she initiated the sexual encounter, that she was already wearing a dress when he got there and went to put on high heels of her own accord, and then came back over to him in the kitchen and smiled and flicked her hair. He asked her if she wanted a kiss and she agreed, and matters progressed from there, with the mother explicitly consenting to the father performing brief oral sex and inserting his finger into her vagina. The father says that all of this time H was at the far end of the room. He explained that the room was L-shaped, and the bend in the L prevented H from having a direct line of sight to them. He says H was transfixed in front of his favourite

television programme, Coco Melon, and unlikely to turn around. He says that H was not exposed to anything, and even if he had come round the corner he would only have seen mummy and daddy standing in the kitchen and daddy at one point bending down. He denied going into the other room and pleasuring himself after the encounter. The father says he stayed the night and slept in the same bed as the mother at her invitation, and left the next day. He says she wanted him to stay longer but he had to get back to get ready for work the next day.

70. The mother says the father's evidence is inconsistent: that at one point he says he pulled the mother's underwear down and at a different point he says the mother pulled her underwear down. Another alleged inconsistency is that the father said in one interview that he had been invited for the weekend, and in a statement that he was invited for a single night. I am not troubled by these inconsistencies. The father was able to explain that he began to take the mother's underwear off and she completed it. As to the confusion about the weekend, in the interview where the father says "weekend" it is plain from the preceding questions and answers that he is confused about what day of the week it was. He couldn't at that point remember whether it was a Friday or Saturday and in oral evidence explained that he was confused because he had worked on the Saturday so it felt like a Friday. His use of the word weekend in those circumstances seems quite sensible. In my view these are not material inconsistencies.

71. By the mother's own evidence it was a month later, on 21 October 2022 that she stopped contact with the father. In her first statement she says he called and harassed her continuously between 3 September 2022 and 21 October 2022 and she blocked him on that latter date.

72. There is a dispute as to how it was that the father came to be in the mother's flat at all, or to know the address. She says he stalked her and followed her and that is how he found her. She gives no explanation of how he was able to find her in the first place in order to stalk and follow her. Conversely, the text messages from March 2022 – August 2022 show a relationship which was close and mutual in which it would be natural for them to know each other's addresses. Indeed it is obvious from text exchanges on 1 and 2 April 2022 that the father knows the mother's address, since

they talk about finding a meeting place near her, and he looks up travel time from his house and from hers. In view of the nature of their relationship at this time I consider it more likely than not that the father was there by arrangement, and not, as the mother says, because he stalked her, found out her address and forced his way in.

73. Taking all this evidence in the round, I come to the conclusion that I prefer the father's version of events for the following reasons:

- a. There are glaring inconsistencies in the allegation. No satisfactory explanation has been given for that. The inconsistencies are so great that it is difficult to see how I could make any finding for that reason alone. It would be difficult to know which version to adopt.
- b. For all the reasons I have already given, I do not accept the mother's assertion that the father forced his way in, nor that she was terrified of the father, nor that he forced her to put on heels, sexy lingerie and a sexy dress.
- c. It is not in issue that the father stayed the night, and remained in contact with the mother afterwards. She says she blocked him on 21 October 2022. If the event took place as the mother suggests in September, it seems to me more likely than not that the mother would have blocked the father and stopped his contact with H there and then, and not a month later. She has given no explanation for the delay in blocking him.
- d. It does not appear that she told the police about it at the time.
- e. I remind myself that this mother made the allegation at a time when she had taken herself off olanzapine against medical advice and was not receiving medication for her psychosis. It is the father's case that the mother was in October suffering a further mental health decline, and that when she is unwell she becomes paranoid and makes allegations. I do not have medical evidence to tell me whether that is what happened in this case, but it is one plausible explanation, and I note that it forms a pattern with her earlier allegations which were made at a time of mental health crisis.

74. In short, there seems to be no evidence that the event complained of caused any ripples at the time and that would be surprising if the allegations were true. The allegations only came a month later, at a time when the mother was cutting off all ties

with the father for reasons which are to me unclear. She says it was because he was calling and texting 8 times a day. As I have set out above, that is a very small figure compared with their normal texting and calling habits. I am unpersuaded that that explains her decision to cut the father off.

75. For all the reasons I have given, **the mother has not proved her case in relation to the alleged sexual assault in September 2022, and I do not make the finding sought.**

Allegation 5: the father would slam H on the bed and shout at him when he began crying, and said “you fucking better cry on your own”; and Allegation 6, the mother would stay with H in the spare room and would calm H down when she cried as the father wanted her to leave H in a dark room until he lets it out.

76. I take these two allegations together. It is necessary to consider them in the wider context of the situation in the home at the time. I have heard evidence from both the father and the paternal grandmother that the mother was breast-feeding H to excess. They both felt that the mother was wearing herself out. Every time H cried they felt that she picked him up and fed him, day or night, and so he never had a chance to learn to self-settle or to be settled by anyone else. The result, they felt was that the mother was exhausted beyond endurance. They feel that was partly what led to her breakdown in September 2021. Their concern was such that they sought help from the GP. It does not appear to be in dispute that the GP recommended a trial of allowing H to cry for 10-15 minutes to see if he would settle. It is clear that there was then dispute between the parents about implementing that advice. The father wanted to do it, and openly states that he did leave H on his mother’s double bed in the dark. I heard evidence from the paternal grandmother that H then became very distressed, and as a result the mother was in a state of heightened agitation and stress. She picked H up, with the father saying “Just leave him, do as the doctor says”. But the mother did not do that – she picked him up.

77. It is clear that leaving H in the dark was against the mother’s parenting style. She gave evidence that at night she would keep a light on when H was asleep. She focussed again and again in her oral evidence on the fact that the father had left H in

the dark. She said it was harmful because he was left unattended in a dark room and the door was shut and she, the mother, could not see how he was so she was terrified. She said that H would have suffered psychologically, although she accepted that no medical professional had said that being left in the dark would have caused such harm.

78. The mother characterises the father's parenting as harsh and harmful. She says he shouted at H and slammed him on the bed. The father denies it. It is essentially her word against his. I look therefore to the wider sweep of evidence to see whether it supports such a contention. The mother's evidence has not always been truthful or accurate, though that of course does not mean that she is not being accurate here. Against that the father's evidence has an overarching coherence to it which is persuasive. It is his case that he was worried about the mother. He acted on that by buying her a breast pump to try to ease the burden of breast feeding all the time. He acted further by seeking help from the GP, and trying to implement the advice. He was worried about her mental health deteriorating because of her exhaustion, and he stated that in emails to social workers at the time. When the breakdown came he recognised it for what it was, and was insistent that she receive professional help, rather than going home with her parents – even although that caused family discord. When she first went into hospital he had H in his care and there is no evidence that H came to any harm. When the mother was well enough to have H back in her care he did not stand in the way of that. When she made rape and sexual abuse allegations he did not react angrily or vengefully but understood it in terms of her wider mental health issues. When contact was re-established in March 2022 his first text messages talk about his hope that she got the help she needed. If the mother had not had mental health problems this might be seen as gaslighting; but in this case where there is a clear diagnosis of psychosis, it is not my view that that was the dynamic. The overarching picture is of a father who is worried and concerned for both his partner and his son. There is no evidence in the multitudinous text messages of any flashes of temper from the father. Any anger management problems might well have made themselves known in response to the allegations made against him, but they did not. I come to the following conclusions:

- a. **The father did put H in a dark room and left him to cry. This was not harmful to H but was a different parenting style, designed to help him settle.**
- b. **The mother has not proved her case that the father shouted at H, lost his temper with him or slammed him on a bed. Accordingly I make no such finding.**

Allegation 2: Coercive control

79. I return at this point to the allegation of coercive control. I have already said that I do not accept the mother was under the control of the father when she withdrew her allegations and that I do not accept she was terrified of him. I have set out in some detail the narrative sweep of this case, and the ways in which the parties have acted in respect of each other. The mother alleges that she was treated badly in the father's home, that she and the paternal grandmother did not let her use certain rooms of the house, or use the washing machine. That is clearly not right in circumstances where she was able, by her own case, to go into the spare room with H when she wanted to. Furthermore in the police video of 23 September 2021 baby equipment can clearly be seen in the living room – a carry cot and a changing mat, and sterilising equipment for bottles in the kitchen. Since the mother was H's primary carer it seems likely she was able to use the equipment in those rooms. The paternal grandmother accepts that she used to ask the mother to put her washing in with the whole household's washing for reasons of economy. The mother clearly found this restrictive and did not want to do it, but there is no evidence that it was done in an effort to control the mother. I have already alluded to events after the breakdown of the relationship which show that the mother was a free agent and not under the control of the father. He returned H to her without argument as soon as she was well enough – only two weeks after her breakdown and whilst she was still so unwell she had to remain in a mother and baby unit. A controlling man would have been unlikely to do that. He did not seek to contact her at her refuge even though he was accidentally given the address by a social worker. The resumption of the relationship was initiated by her, not him. He did not attempt to move into her new home or to have her move back to his home. He did not object to her travelling and taking H abroad. There is no evidence of him trying to isolate her from her family and friends – indeed there are many messages in the text exchanges which show the reverse. He says things like “Can I call you now or

will you call me later?” Controlling partners do not usually give such a choice but rather want their partners to answer at all times, and without warning. There are screenshots of exchanges in which he gives her traffic advice about the journey to her parents, or where he suggests that she could go and see her parents instead of coming home because of the traffic. In short, none of the well-known signs of coercive control appear to be present in this case.

80. All the evidence goes the other way. The evidence is of a warm and supportive relationship, punctuated by one significant moment of ill-health and a further incident which may or may not have been influenced by ill-health. **I do not accept that this was a relationship characterised by coercive control.**

Remaining allegations

81. Had I come to the opposite conclusion it might have swayed me in relation the very first allegation, in relation to the sharp knives. As it is, I consider it most unlikely within the relationship I have described that the first allegation is true. I therefore conclude that **I do not find that the father prevented the mother from using his sharp knives.** By the same token I have to consider the allegation that the father objected to the mother breastfeeding H said to her “those breasts belong to me”. I accept he did speak to the mother about breastfeeding but not because he wanted her to stop: he just wanted her to use other strategies to settle H so that she could get some rest. He says he did make comments similar to the one alleged about the mother’s breasts, but said them in jest. Given the overall character of the relationship, I accept that from him and do not consider the comments harmful. **I do not make a finding against the father in relation to his comment about the mother’s breasts. I do not find that the mother sought to discharge the non-molestation order because the father coerced her to do so.** That was plainly not the tenor or character of their relationship at that time.
82. **The mother alleges that the father threatened her that people were following her, and that he had tracked her location. The mother has not proved these allegations and I do not make the finding sought. The mother alleges that the**

father forced her to marry him, but accepted that she was not married to him. Her evidence on this was confused and confusing, **and I do not make the finding sought.**

83. The final allegation is that the father threatened to remove H from the mother's care and take full custody of him. In her first statement the mother says "he has threatened to remove H from my care continuously". That is plainly not true, as he handed H back to his mother without fuss in 2021 as soon as she was well enough and before she was well. In her second statement the mother alleges that the father made a specific threat on 3 September 2022 and that as a result she blocked him. She says he uses this threat because he wants to get housing and has been on a waiting list for 20 years. Having H in his care would boost his place on the list.

84. I do not find the mother's account of this credible. Her account is inconsistent with the fact that on 17 September 2022 she invited the father to her house to see H and to stay the night. In his application form for these proceedings the father puts his application in these terms: "I would like the court's decision to enable me to have regular and meaningful contact with my son, that if "the mother" is unwell and unable to care for our son or is in hospital for H to be able to stay with me. ..I would like to offer him stability in knowing that his dad is always there for him and loves him very much. ...I have repeatedly told "the mother" how proud of her I am in the progress she has made in her recovery so far and also the fantastic job she has done bringing our son up but I strongly feel that she needs to share the responsibility in order to give herself time to recover." This was written by the father at a time when the mother had cut all contact with him and would not respond to his communications or provide him with any explanation of what was going on with his son. In the circumstances, his request to the court seems moderate: and I find no hint in it of any desire to remove H from his mother's care. There is no evidence that the father has ever been in touch with the housing department to suggest that he might have his son living with him and to request better housing on that basis. In oral evidence the father said he would be concerned about the damage to H if he were to be removed from his mother's care. He volunteered that the mother was the only parent H had known since he was four months' old. He said that removal of H from the mother would also damage the mother's mental health. The father's evidence on this was child-centred and convincing. **There is simply no evidence to support the mother's assertion**

that the father has threatened to remove H from her care, and I do not make the finding sought.

85. **In conclusion, I have made none of the findings sought by the mother.**

86. It will now be necessary to consider the welfare decisions, and to make the necessary directions to ensure that orders are made in H's welfare interests to safeguard his relationship with both parents as he grows up. In view of the fact that no findings have been made, I make it plain that the court will expect direct contact between H and his father to recommence. I will hear submissions as to how that might best be achieved. H is now 3. It may be appropriate for him to have one or two sessions with his father in a contact centre, not because there is any suggestion that the father needs to be supervised but because H could be taken to the centre in advance to familiarise himself with it and to meet the supervisor. A known supervisor might help to reassure H and make initial sessions of contact flow more smoothly. That is only a suggestion and I will be willing to hear other suggestions, but I make it plain I am looking for submissions as to the best way to restart the contact.

87. One matter that I can deal with now is to say that as a result of my findings it is my view that the mother is no longer a protected party and I discharge any requirement for her to be questioned by a QLR at any future hearings.