

IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL WRIT PETITION NO.44 OF 2015

Enny Milana Da Costa,
Daughter of Francisco
P. B. Da Costa,
40 years of age, service,
Presently Resident of H. No. 289,
Fernand Vaddo Assnora,
Bardez Goa.

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Petitioner

V e r s u s

- 1) Chief Secretary,
Secretariat,
Porvorim Bardez Goa
- 2) Superintendent of Police,
North Goa,
Porvorim Bardez Goa.
- 3) Police Incharge,
Panaji Town Police Station,
Panaji Goa.
- 4) Police Incharge,
Women Police Station Panaji,
Goa.
- 5) Shri Rohil Prakash Varde,
Son of Prakash Varde,
40 years of age,
Resident of S-2, Shivam Building,
Journalist Colony, Porvorim Bardez Goa
OR
First Floor, Swan Nivas lake View Colony,
Miramar, Tiswadi-Goa.
- 6) Smt. Anupama Prakash Varde,
Son of Prakash Varde,

67 years of age,
Resident of S-2 Shivam Building,
Journalist Colony, Porvorim Bardez Goa
Or

First Floor, Swan Nivas Lake View Colony,
Miramar Tiswadi, Goa.

..... Respondents.

Mr. J. A. Lobo, Advocate for the Petitioner.

Mr. M. Amonkar, Additional Public Prosecutor for Respondents no.1 to 4.

Mr. V. R. Tamba, Advocate for Respondents no.5 and 6.

**CORAM: F. M. REIS &
C. V. BHADANG, JJ.
Date: 7th December, 2015.**

ORAL JUDGMENT (Per F. M. Reis, J):

Heard Mr. Lobo, the learned counsel appearing for the petitioner, Mr. Amonkar, the learned Additional Public Prosecutor for respondents no.1 to 4 and Mr. V.R. Tamba, the learned counsel appearing for the respondents no.5 and 6.

2. Rule. Heard forthwith with the consent of the parties. The respondents waive service.

3. The above habeas corpus petition has been filed by the petitioner on the ground that the minor child was not traceable from 30/3/2015 after she had reported at People's High School at Panaji. Despite all attempts to

serve the respondents no. 5 and 6 were not successful. On the last date of hearing, Mr. V. R. Tamba, learned counsel having office at Panaji filed appearance on behalf of respondents no.5 and 6.

4. Mr. Amonkar appearing for respondent nos. 1 to 4 filed an affidavit inter alia contending that there is a matrimonial dispute between the petitioner and her husband/Respondent no.5 and as such, the police attempts could not lead to trace the whereabouts of the minor child. On the last date of hearing, Mr. Tamba the learned counsel appearing for respondent nos.5 and 6 had made a statement that the concerned minor child namely, Tanishk Rohil Varde would be present in the Court on the next date of hearing.

5. Accordingly when the matter was taken up today, the minor child Ms. Tanisk is present in Court. The learned counsel appearing for the petitioner along with the petitioner confirms the identity of the said minor child. There were rival contentions with regard to the custody of the minor child, as according to Mr. Lobo, the learned counsel appearing for the petitioner there are orders passed by the Civil Judge, Senior Division, Mapusa granting permanent custody of the minor child to the petitioner. But however, taking note of the scope of the present petition it would not be appropriate for this Court to examine the veracity of the allegations between the parties on that count. But however, the fact that the minor child has been produced in Court

has not been disputed by the petitioner. The petitioner would have to resort for independent remedies if so advised in accordance with law with regard to the grievance about the custody of the concerned child.

6. Mr. Tamba, the learned counsel appearing for respondents no. 5 and 6, upon instructions of respondent no.6, who is also present in Court has furnished the present address of the child to be thus:

Plot No.1007,
Next to Excise Office,
P.B. Road,
Belgaum, Karnataka.

7. The said statement of the learned counsel, upon instructions, stands accepted.

8. Mr. Tamba further undertakes, upon instructions of respondent no.6 that any change of the address of the child shall be communicated to the petitioner in writing. The said undertaking is also accepted.

9. We would however, note that it was expected of respondents no.1 to 4 to take appropriate measures to locate the child based on the directions issued by this Court. Considering that the child was stated to be in Belgaum, we do not find any cogent steps taken by the respondent nos. 1 to 4 to locate the

child. But however, considering that the child is ultimately produced in the Court by the Respondent no.6, we shall not proceed any further in that direction.

10. At this stage both the learned counsel state that the petitioner and respondent no.6 are prepared to work a solution for the benefit of the education of the child. Any steps in that direction should be welcomed by both the parents as ultimately, the welfare of the minor child and her education should be of paramount interest of the parties.

11. In view of the above and accepting the said statement and undertaking of Mr. Tamba and as the minor child has been produced in Court, we find that nothing survives in the above petition. Rule stands disposed of accordingly.

C. V. BHADANG, J.

F. M. REIS, J.

Ap/-