

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 4444 OF 2015

Mukesh Kumar. ..Petitioner.

Versus

State of Maharashtra & Others. ..Respondents.

Ms. Priyanka Ghosh for the Petitioner.

Mr. J. P. Yagnik, learned APP for Respondent No. 1 and 2.

Coram : Ranjit More &
Dr.(Smt) S. S. Phansalkar-Joshi, JJ.

Date : **November 23, 2015.**

P. C. :

1. Heard learned Counsel appearing for the Petitioner and learned APP for the State. In pursuant of the order dated 19th November 2015, Mr. Devi Singh, Sub Inspector of Police from Rani Police Station, District Pali (Rajasthan) has produced before us the victim girl – Ayesha @ Asha. We have interacted with her.

2. Ayesha @ Asha stated before us that she was in love with the Petitioner and as they belonged to different religions, their families were not ready to accept their relationship, and therefore, she eloped with the Petitioner. She further stated that after conversion to Hinduism, she voluntarily got married with the Petitioner at Ujjain on 8th June 2015. She submitted that on

the basis of complaint lodged by her brothers, she was brought back to Rajasthan and given in the custody of her brothers and her brothers have forced her to marry with another person by name Sayyed Mohammed resident of Gujarat and thereafter she was kept captive at Kala, Taluka Deesa Bhildi, District Banas Kantha in Gujarat.

3. Petitioner's case is that he and victim girl – Ayesha @ Asha were in love relationship. They got married on 8th June 2015 at Ujjain. Sarfaraj Quereshi - brother of the girl, who was against their relationship, had filed a missing complaint with Rani Police Station on 9th June 2015 being MPR No. 2 of 2015 and in pursuant of this, Ayesha was brought back to Rajasthan and given in the custody of her brothers and her brothers have forcefully married her with one Sayyed at Gujarat. The Petitioner's further case is that somehow Ayesha @ Asha could contact him from Gujarat, where she was kept captive and he thereafter registered FIR with Ambernath Police Station against the brothers of Ayesha, which FIR was subsequently transferred to Rani Police Station, Rajasthan. On that basis, Ayesha @ Asha was rescued by Bhildi Police Station, Gujarat and subsequently taken into custody by

Rani Police Station. The Petitioner is personally present in the Court. He reiterated the contents of his petition. He also identified the girl produced before the Court to be Ayesha @ Asha.

4. Ayesha @ Asha has submitted before us that she is 20 years old. Mr. Yagnik, learned APP submitted that the ossification test carried on the victim girl – Ayesha @ Asha shows her age to be between 19 to 21 years. Thus, Ayesha @ Asha is major. She claims to have voluntarily married with the Petitioner.

5. In the above fact situation, Ayesha @ Asha is at liberty to go wherever she desires to go. Writ Petition stands disposed of.

6. At this stage, Mr. Yagnik, learned APP for the State submitted that statement of victim girl is required to be recorded under section 164 of the Code of Criminal Procedure, 1973 and it is proposed to record her statement before the concerned JMFC on 30th November 2015. On this issue, we do not wish to give any direction. Let the proper procedure be followed. In this writ petition for habeas corpus, we cannot issue any direction for the investigation. Suffice it would be to record the undertaking given

by the the Petitioner and victim girl through their advocate that they will extend co-operation in the investigation. Statement is accepted as an undertaking to this Court. Needless to state that all parties are at liberty to adopt the remedies available to them under the law.

[Dr. (Smt.) S. S. Phansalkar-Joshi, J.]

[RANJIT MORE, J.]