

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO.432/2016

Mahesh s/o Bhatu Patel,
age 29 yrs., occu.agri.,
r/o Sarangkhedha Tq.Shahada
Dist.Nandurbar.

...Petitioner..

Versus

- 1] The State of Maharashtra,
through Principal Secretary,
Department of Home,
Mantralaya, Mumbai – 32.
- 2] Special Inspector General of Police,
Nashik Range, Dakshata Building,
Old Mumbai – Agra Road,
Gadkari Chowk, Nashik – 422002.
- 3] The Commissioner of Police,
Aurangabad. Dist.Aurangabad.
- 4] The Superintendent of Police,
Nandurbar. Dist.Nandurbar.
- 5] The Police Inspector,
Sarangkheda Police Station,
Tq.Shahada Dist.Nandurbar.
- 6] Smt.Vidya w/o Kantilal Jain,
age major, occu.business,
r/o Sarangkhedha Tq.Shahada
Dist.Nandurbar.

- 2 -

7] Sailesh s/o Kantilal Jain,
age major, occu.business,
r/o Sarangkhedda Tq.Shahada
Dist.Nandurbar.

8] Mrs.Puja w/o Mahesh Patel,
@ Puja Kantilal Jain,
age 23 yrs., occu.nil,
r/o Sarangkhedda Tq.Shahada
Dist.Nandurbar.

...Respondents...

.....

Shri Shrikrishna U. Chaudhari, Advocate for petitioner.
Shri S.J. Salgare, APP for respondent nos.1 to 5.
Shri G.D. Jain (Bhansali), Advocate for respondent no.8.

.....

**CORAM: R.M. BORDE &
K.L. WADANE, JJ.**

DATE: 12.04.2016

ORDER :

1] The instant petition requesting to issue writ of *habeas corpus* is presented by the husband of the respondent no.8 for ensuring her presence before this Court. The petitioner claims that he is married with the respondent no.8 and the marriage has been performed as per the Hindu rituals on 23.1.2015. The petitioner states that he belongs to Gujar community, whereas the respondent no.8 belongs to Jain religion. As such, there is opposition for the love marriage by the members of the

- 3 -

family of the respondent no.8. It is further contended that after performance of marriage, the couple cohabited together with the friends and relatives of the petitioner till 2.3.2015. However, it is alleged that on the aforesaid date, an officer of the Police Station forcibly took away the respondent no.8 and physically handed her custody to the respondent nos.6 & 7 and her uncle.

2] The petitioner on earlier occasion approached this Court by presenting a petition for *habeas corpus* being Criminal Writ Petition No.384/2015 in the month of May, 2015. This Court directed production of the girl i.e. the respondent no.8 before this Court. The matter was heard in the chamber and upon enquiry, the respondent no.8, who is major, had expressed her willingness to stay with her mother. In view of the statement made by the respondent no.8, the *habeas corpus* petition came to be disposed of.

3] The instant petition is again presented contending therein that the respondent no.8, who is the wife of the petitioner, is detained against her wish and

- 4 -

will by her family members including the respondent nos.6 & 7. In support of the allegations, the petitioner has produced on record the letters allegedly written by the girl i.e. the respondent no.8 at page no.42 onwards. The respondent no.8 has accepted specifically that she is the author of these letters annexed to the petition. Apart from this, the Registry of this Court has received the letters independently allegedly written by the respondent no.8. The Registry has also received a Pen Drive containing video recording of the respondent no.8. On perusal of the letters annexed to the petition as well as on consideration of the letters received by the Registry directly and the video recording, we called upon the Superintendent of Police, Dhule, to produce the respondent no.8 before this Court. The Police authorities have produced the respondent no.8 before us. At 2-30 p.m., upon an enquiry, it has been disclosed by the respondent no.8 that firstly she is the author of the letters annexed to the petition and secondly she is the author of the communication received by the Registry of this Court as well as the respondent no.8 has admitted transmission of the Pen Drive containing video recording.

- 5 -

The respondent no.8 has, however, contended that she is not being ill-treated by the members of her family. She has admitted that she has attained majority and her age is 22 years. She has also admitted solemnization of her marriage with the petitioner. The respondent no.8 initially was not in a position to make her mind and as such requested for grant of some time to think over and inform her decision to the Court. The matter was taken up at 5-00 p.m. in the chamber. Upon an enquiry on second occasion, the respondent no.8 in an unequivocal terms expressed her desire to join company of her husband i.e. the petitioner. In presence of the learned counsel appearing for the respective parties also, the respondent no.8 during the course of hearing of the instant petition, has reiterated her desire to joint the company of the petitioner. The respondent no.8 has also extended the request that she and her husband be reached to her matrimonial home or at the place of sister of the petitioner at Shahada. It is contended that the Police authorities of Nandurbar had adopted a partisan attitude on earlier occasion and as such the respondent no.8 has no faith in the Police officers functioning at Nandurbar.

- 6 -

Considering this statement of the petitioner, at initial stage also, directions were issued to the Local Crime Branch, Dhule to produce the respondent no.8 before this Court. We deem it appropriate to direct the Police authorities i.e. Shri N.K. Pathan, Police Sub-Inspector, Local Crime Branch, Dhule, to ensure that the respondent no.8 is reached safely alongwith the petitioner at the petitioner's sister's residence at Shahada. Shri N.K. Pathan, PSI, who is present in person in the Court has undertaken the responsibility to abide by the directives issued by this Court.

4] In view of the desire expressed by the respondent no.8 in unequivocal terms that she would join the company of her husband and will cohabit with him, the purpose of presenting the instant petition for *habeas corpus* shall be deemed to have been served. We direct the Police authorities (Shri N.K. Pathan, PSI, LCB, Dhule) to ensure that the respondent no.8 is reached safely alongwith the petitioner at the residence of the petitioner's sister at Shahada.

- 7 -

5] In view of the directions as above, the criminal writ petition stands disposed of.

(K.L. WADANE, J.)

(R.M. BORDE, J.)