

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.4694 OF 2015

Vikram Kamal Jagtiani

Petitioner

versus

The State of Maharashtra and others

Respondents

Ms.Rajani Iyer, Senior Advocate, i/by Radhika Mehta for
Petitioner.

Mrs.S.D.Shinde, APP, for State.

Mr.Y.H.Muchhala, Senior Advocate, with S.R.Nachan i/by Bhave
& Co. for Respondent no.4.

CORAM : NARESH H. PATIL AND
PRAKASH D. NAIK, JJ.

DATE : 11 July 2016

PC :

1. Learned Senior Advocate appearing for the Petitioner has invited our attention to an order passed by learned Single Judge in Writ Petition No.3282 of 2014, dated 27 March 2014, which reads as follows :

"1. *Heard.*

2. *By this petition, the Petitioner has impugned the order dated 25th February 2014 passed by the Family Court, Bandra, Mumbai in Interim Application No.276 of 2013 in Petition No.D 97 of 2013.*

3. *Learned counsel for the Petitioner submits that the custody of the child is with the Petitioner-wife. He submits that though the Respondent-husband is presently in the USA, he has been threatening to take the custody of the child. Learned counsel therefore prays that the Respondent-husband be restrained from taking away the minor daughter (aged 4½ years) from the custody of the Petitioner.*

4. *Issue notice to the Respondent, returnable on 10th April 2014. Learned counsel to take steps to serve the Respondent who is in the USA either by E-mail or any other mode of communication.*

5. *In the meantime, the custody of the child which is with the Petitioner, not to be disturbed, till the next date.*

6. *Stand over to 10th April 2014."*

2. Learned Senior Advocate appearing for the Petitioner fairly submits that interim relief granted in favour of the Respondent herein (Petitioner in Writ Petition No.3282 of 2014) has been continued from time to time.

3. In the present petition, following reliefs are prayed for :

"A) *This Hon'ble Court may be pleased to issue a writ of Habeas Corpus to the Respondent No.1 to 4, and order them to present "Nikhita Vikram Jagtiani" before this Hon'ble Court;*

B) *This Hon'ble Court be pleased to grant custody of "Nikhita Vikram Jagtiani" to the Petitioner; OR*

C) *In the alternative this Hon'ble Court be pleased to direct the Respondent no.4 to produce the minor child "Nikhita Vikram Jagtiani" before the Family Court of the State of New York County of New York."*

Learned Senior Counsel appearing for the Petitioner submits that the petition need not be disposed of and be kept pending, so that at an appropriate stage it could be moved.

4. There is no dispute between the parties that the Petitioner, at present, is residing at New York, USA, and the Respondent along with daughter is residing at Mumbai. In the facts, we find it appropriate to observe that the Petitioner may take appropriate steps in the proceedings of Writ Petition No.3282 of 2014.

5. It is clarified that in case cause of action arises for the Petitioner consequent to order passed in Writ Petition No.3282 of 2014, he would be at liberty to resort to appropriate remedies as permissible in law. We have not expressed any opinion on the merits. With these observations, the petition stands disposed of.

(PRAKASH D. NAIK, J.) (NARESH H. PATIL, J.)