

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 3834 OF 2015

Shanawaz Ali Baghwan ... Petitioner
Vs.
State of Maharashtra & Anr. ... Respondents

.....
Mr. Keshar K. Agrawal & Mr. V. H. Abhang for the Petitioner
(absent).
Mr. K. V. Saste, APP for Respondent-State.
None present for Respondent No.2.
.....

**CORAM : S. C. DHARMADHIKARI &
PRAKASH D. NAIK, JJ.**

DATE : APRIL 13, 2017.

P.C. :

1. We do not think, merely because the petitioner is present in person, so also the complainant/respondent no.2, and there are affidavits placed on record, that we should indulge them any further.
2. When the matter was placed yesterday, all of them were absent, so also their Advocates.
3. Today, surprisingly, the parties are present, the Investigating Officer is also present but the Advocates for the petitioner and respondent no.2 are absent.

4. It is not for this Court to accept the version now emerging from these affidavits. It is very convenient for the 2nd respondent to, firstly, file a complaint with the Police alleging that the petitioner has taken away his daughter from his custody and illegally. She was not of marriageable age, and therefore, this is an offence committed by the petitioner which is punishable under Section 363 and other provisions of the Indian Penal Code.

5. Now, all of them are present and relying on these affidavits. It is contended that the petitioner has married the 2nd respondent's daughter and at the time of marriage, and even today, she was not a minor. The affidavits mention her age as 19 years. However, the Investigating Officer is present, and on taking instructions from him, Mr. Saste, learned APP informs us that there is a difference or discrepancy in the documents certifying the age of the daughter of the complainant/2nd respondent. All the more, therefore, it is unsafe to rely on their affidavits.

6. After perusing the F.I.R. and finding that it discloses *prima facie* commission of an offence punishable under the provisions of the Indian Penal Code, we dismiss this Application.

(PRAKASH D. NAIK, J.)

(S. C. DHARMADHIKARI, J.)