

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY  
AND  
THE HON'BLE SRI JUSTICE M.S.K. JAISWAL

Writ Petition No.22862 of 2017

DATED:11-07-2017

Between:

Anand Rajan

... Petitioner

And

State of Telangana  
Rep. by its Principal Secretary  
General Administration Department  
Secretariat, Hyderabad  
and others

... Respondents

COUNSEL FOR THE PETITIONER: Mr. B.S. Kartik

COUNSEL FOR THE RESPONDENTS: Assistant Government Pleader  
attached to the Office of the  
Advocate General (TS)



THE COURT MADE THE FOLLOWING:

ORDER: (per the Hon'ble Sri Justice C.V. Nagarjuna Reddy)

This writ petition is filed for issue of habeas corpus directing the respondents to produce one Jaynitha Rajan, minor daughter of the petitioner ("the alleged detainee"), before this Court and handover her custody to the petitioner.

In the affidavit filed in support of this writ petition, the petitioner has averred that he married respondent No.3 in the year 2007, that from the wedlock the alleged detainee was born on 25.5.2009 and that due to differences between them the petitioner and respondent No.3 have legally separated under a decree of divorce dt.11.8.2012 granted by the Family Court, Chennai, in terms of Memorandum of Understanding (MoU), dt.22.5.2012, as per which the petitioner has retained the custody of the alleged detainee and respondent No.3 will have only visitation rights. It is further alleged that on 16.04.2017 respondent No.3 gave a false complaint in respondent No.2 Police Station alleging that the petitioner was refusing to permit her to meet and spend time with the alleged detainee, that on coming to know about this, the petitioner went along with the alleged detainee to respondent No.2 and apprised him about the decree of the Family Court, Chennai and that he did not object to exercise of visitation rights by respondent No.3. That, however, respondent No.2 did not cooperate with the petitioner and insisted on him to give custody of the alleged detainee to respondent No.3 and that therefore the petitioner handed over his daughter against his wish to respondent No.3 even though the alleged detainee was crying and refusing to go with respondent No.3. The petitioner further alleged that contrary to the assurance given by respondent No.3 that she will handover his daughter to him on 18.4.2017, she did not stand on her word, that he has learnt

that respondent No.3 has been living with one Mr. Siva Kumar, resident of Coimbatore, and that she has deceived the petitioner, taken the custody of his minor daughter and kidnapped her. He has further averred that he has lodged a complaint before respondent No.2 and the same was registered as Crime No.312 of 2017.

The report given by the petitioner based on which the aforesaid crime was registered by respondent No.2, reads as under:

*“Facts of the case are that on 26.07.2012 the complainant got divorce from Chennai Family Court, with his first wife Vanitha Vijay Kumar, D/o. Actor Vijaya Kumar & Manjula, age:36 yrs. At the time of divorce Vanitha Vijay Kumar was not willing to take care of child Jaynitha Rajan. When the complainant was out of station Vanitha Vijay Kumar trespassed into the complainant's house & office and abused the complainant's housemaid and co-workers. On 17.04.2017 the complainant spoke with her and she cried emotionally and blackmail and said that she came to see the child & stayed for day. Thereafter, a day, Vanitha Vijay Kumar kidnapped the Jaynitha Rajan and his mobile phone No.81062531678 was switched off. Later the complainant came to know that Vanitha Vijay Kumar is in living relation with a business man Nan Shiva, R/o. Coimbatore. Hence the complainant requested to take necessary action.”*

As rightly pointed out by the learned Assistant Government Pleader for Home (TS), the petitioner did not raise a whisper about his having been forced by respondent No.2 to handover the custody of the alleged detainee to respondent No.3. On the contrary, the report reveals that when the petitioner was out of station, respondent No.3 trespassed into his house and office, abused the petitioner's housemaid and co-workers, that on 17.04.2017 when the petitioner spoke to respondent No.3, in an emotional manner she blackmailed him and that thereafter she has kidnapped the alleged detainee. It is thus clear from the report given by the petitioner that the whole grievance is against respondent No.3, and not against respondent No.2. On the petitioner's own showing, the MoU is subsisting between him and respondent No.3 under which the latter has

visitation rights. If, in the process of exercising such visitation rights, respondent No.3 has violated the MoU, remedy of the petitioner lies in seeking enforcement of the MoU.

In the above facts and circumstances of the case, we are not inclined to entertain this writ petition and the same is accordingly dismissed with liberty to the petitioner to avail appropriate legal remedies available to him under law.

---

C.V. NAGARJUNA REDDY, J

---

M.S.K. JAISWAL, J

11-07-2017

*bnr*

