

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO.313 OF 2018

Mohammed Alam Mohemmed Israr Idrisi Petitioner
Vs.
State of Maharashtra & Anr. Respondents

Mr. Ubaid A. Ghawte i/by Mr. Soheli E. Kazi for
the Petitioner.
Ms M.H. Mhatre, APP, for the Respondent-State.
Mr. S.S. Kanetkar for Respondent No.2.

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

DATE : MARCH 15, 2018

P.C:

1. This writ petition seeks the following reliefs:-

"(a) Rule be issued and Respondent No.2 be directed to show cause as to why no action will be taken in respect of Ill-legal detention of Petitioners wife in his custody.

(b) By issuing appropriate Writ, discretion under Article 226 for the release of petitioners wife from the custody of respondent no 2.

(c) That the directions may be given to respondent no 2 not to interfere in the life of petitioner and his wife."

2. Pertinently, in prayer clause (d) of the petition the petitioner seeks a declaration that the marriage between him and his wife is lawful and the second respondent has no right to detain his wife illegally.

3. The allegation is that, he has married the daughter of the second respondent before us and that the second respondent has abducted her and has kept her in confinement and illegal custody. She is major and having lawfully married the petitioner, the second respondent cannot detain her and contrary to her wishes.

4. Upon such a petition, on notice, the learned APP has appeared and produced before us the original records. That contains the statement of the lady stated to be the wife of the petitioner and the daughter of the second respondent. Upon perusal of the statement, we are satisfied that the daughter cannot be considered, *prima facie*, to be in illegal detention and custody. She states that she is residing willingly with her family, including her father, brother and sisters. She has narrated the

circumstances in which she left the City of Pune and along with the petitioner but realising the consequences of the act indulged in, she has returned to her parents.

5. On such a statement being perused by us, we put it to the petitioner's Advocate that we are not inclined to grant any relief in this petition as the petitioner must avail of the remedies available to him in general law in order to seek the declaration, particularly in the prayer clause (d) of the petition and consequential reliefs.

6. The petitioner's Advocate states that he has no instructions to withdraw the petition. We are not inclined to grant him time to take instructions. When the petition is circulated for urgent admission, the petitioner's Advocate ought to be ready with all instructions. Since the petitioner is not entitled to the relief and as claimed, we proceed to dismiss this petition. It is dismissed.

(PRAKASH D. NAIK, J.)

(S.C. DHARMADHIKARI, J.)