

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION

**WRIT PETITION NO.1492 OF 2018**

Mohammed Arshad Abdul Majid Shaikh .... Petitioner

Vs.

The Senior Inspector of Police

Shanti Nagar Police Station & Ors. .... Respondents

Mr. Namdeo W. Vaidya for the Petitioner.

Ms M.H. Mhatre, APP, for the Respondent-State.

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

**DATE :** MAY 04, 2018

**P.C:**

1. On 19-4-2018, on this petition, the following order  
was passed:-

*“1. Let the investigating officer attached to Shanti Nagar Police Station, Bhivandi, District Thane verify from respondent nos.5, 6 and 7, and particularly respondent no.8, as to whether respondent no.8 has indeed married the petitioner, as claimed by him, on 8<sup>th</sup> December, 2017 and both of them have cohabited for one month or so, and thereafter she has been forcibly taken away by her parents as they belong to different religion and for allegedly not approving the match.*

*2. It is stated that there is no communication presently between the petitioner and respondent no.8, though she is allegedly legally married wife of the petitioner and she is wrongfully restrained and confined by her parents contrary to her wishes. It is this fact we want an independent person to verify. Stand over to 4<sup>th</sup> May 2018.”*

2. Pursuant to that order, Ms Mhatre, learned APP, has been instructed to state as follows:

(a) That the police station, Shantinagar, Bhiwandi has been informed that respondent No.8 is residing with her parents in the State of Rajasthan, particularly in the district, namely, Udaipur.

(b) It is stated that respondent No.8 is a major, being above 18-years of age. She has given a statement under Section 164 of the Code of Criminal Procedure before the Competent Authority, namely, the Magistrate and that was in relation to an offence allegedly committed by the petitioner and punishable under Section 363 of the Indian Penal Code. In relation to that offence and which was registered by the police station, namely, Rushabhdev, District Udaipur in the State of Rajasthan, in her

statement respondent No.8 has not admitted of any relationship, much less as husband and wife between the petitioner and herself. On the other hand, her version is because the parents were upset with her, in a huff and in anger she left the house (parental home) on 23-11-2017 voluntarily but has now voluntarily returned back to the same.

(c) Based on her statement and her further exoneration of the petitioner from the offence punishable under Section 363 of the Indian Penal Code, the concerned police station in the State of Rajasthan has now filed a "C" Summary Report in the Competent Criminal Court.

3. To our mind, in such a state of affairs the petitioner cannot seek a writ of habeas corpus. A fully grown up major lady, admitting of no relationship with the petitioner, had voluntarily left the parental home and equally voluntarily returned back to the same. In the event the petitioner is aggrieved by her and the acts of her parents and her refusal to accept any relationship as husband and wife, the remedy is to

approach a Competent Court and seek a declaration with regard to such relationship and after a final order in favour of the petitioner, if the same is enforceable and executable in law, to enforce it as such. In the circumstances, this habeas corpus petition is entirely misconceived and is dismissed.

(PRAKASH D. NAIK, J.)

(S.C. DHARMADHIKARI, J.)