

High Court for the State of Telangana

THE HON'BLE SRI JUSTICE RAGHVENDRA SINGH CHAUHAN

AND

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

Writ Petition No.2779 of 2019

Date: 02.04.2019

Between:

Shavnarshi Reddy

...Petitioner

and

The State of Telangana and others.

...Respondents

Counsel for the petitioner : Ms. Y. Jhansi

Counsel for the respondent Nos.1 to 6: Mr. A. Manoj Kumar,
AGP for Home attached to
the learned Additional
Advocate General

Counsel for the respondent Nos.7 to 12: Ms. J. Sumathi

The Court made the following:

ORDER: (Per the Hon'ble Sri Justice Raghvendra Singh Chauhan)

Mr. Shavnarshi Reddy, the petitioner, has approached this Court for seeking production of her infant daughter from the custody of the respondent Nos.7 to 12.

Briefly, the facts of the case are that the petitioner claims that in 2014, she was married to one Mr. Pawan Reddy. But, after few months of the married life, differences arose between her and her husband. Therefore, they parted their ways. By the time she left the matrimonial home, she realised that she was six months pregnant. However, as the marriage was a love marriage, she had no way for returning back to her parental home. Thus, all alone, on 02.11.2016 she gave birth to a girl child. Since she was without the support of her husband, and without the support of her parental family, she had no other option but to bring up the child on her own. However, during this period, in 2016-17, she was trying to complete her MBA degree. Therefore, naturally she had to prepare for the MBA ICET examination. But, saddled with the responsibility of having to look after the child, the petitioner found it extremely difficult to study on the one hand, and to look after the welfare of the child on the other hand. Hence, she thought that it would be proper, if she could find some domestic help or someone to look after the needs of the child.

Therefore, according to the petitioner, she contacted one Mr. Narender Lingala, the respondent No.7, as he was working as a Compounder in the local hospital. He promised that he and his wife, Lalitha, the respondent No.8, will be able to take care of the girl child. On 19.12.2017, she went to the house of Mr. Narender. The parties entered into an oral agreement that while the

respondent Nos.7 and 8 will take care of the child, the petitioner will pay them a monthly salary of Rs.8,000/-. The petitioner handed over the custody of the child to the respondent Nos.7 and 8.

However, on 27.08.2018, when the petitioner went to ask Mr. Narender to return the child, she discovered that the child was missing. In fact, both the respondent Nos.7 and 8 flatly denied that they have ever taken her child from her. They not only assaulted the petitioner, but also threatened her with dire consequences, in case she tried to ask them to return her child.

Therefore, on 09.01.2019, the petitioner filed a complaint with the Kukatpally Police Station. But, despite her complaint, no action has been taken by the police. Even on 27.01.2019, she filed a complaint with the Begumpet Police Station for offences under Sections 323, 448 and 506 read with 34 IPC. But even the said complaint fell on deaf ears. She had subsequently learnt that the child is in the custody of the respondent No.11, J. Soujanya. Therefore, the petitioner has filed the present Habeas Corpus Petition for seeking the production of her child, and for seeking the return of the child from the custody of the respondent No.11.

By order dated 01.04.2019, this Court had directed the police to produce the child from Shishuvihar. For, during the pendency of this case, the child was recovered from the custody of the respondent No.11, and kept in the custody of Shishuvihar. Consequently, today, the child has been produced from Shishuvihar before this Court.

The learned counsel for the respondent No.11, Ms. J. Sumathi, has vehemently tried to argue that the custody of

the child should not be returned to the petitioner, as the child has been brought up by the respondent No.11 for the last few years. However, on 01.04.2019, this Court had asked the respondent No.11 as to in what capacity she claims to have the legal custody of the child? And whether she is the natural mother, or the adopted mother, or the foster mother, or the surrogate mother of the child? To this pointed query, the learned counsel had frankly conceded that the respondent No.11 does not fall in any of these four categories. Thus, clearly, in the eyes of the law, the respondent No.11 is not entitled to have the custody of the child.

According to the evidence gathered by the police, there is a document issued by the Gandhi Hospital, Secunderabad, which clearly shows that Shavnarshi Reddy, W/o. Pawan Reddy, aged 23 years, had given birth to a baby girl on 04.11.2016. Therefore, according to the said document, the petitioner, *prima facie*, is the mother of the girl child.

Since the child is about three years old, under the law, the mother is the natural guardian of the child. Since the child has been produced before this Court, the police is directed to hand over the custody of the child to the petitioner.

Therefore, this Writ Petition is hereby allowed. There shall be no order as to costs.

The miscellaneous petitions pending, if any, shall stand closed.

(RAGHVENDRA SINGH CHAUHAN, J)

(T. AMARNATH GOUD, J)

02nd April, 2019
JSU

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