

HIGH COURT FOR THE STATE OF TELANGANA

**THE HON'BLE THE ACTING CHIEF JUSTICE
RAGHVENDRA SINGH CHAUHAN**

AND

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

W.P.No.8242 of 2019

Date: 18.04.2019

Between:

Rizwana Begum

... Petitioner

and

The State of Telangana,
Rep. by its Principal Secretary,
Home Department, Secretariat Building,
Hyderabad, T.S, and others.;

...Respondents

Counsel for the petitioner : Mr. Dr.J. Vijayalaxmi

**Counsel for the respondent Nos1 to 8: Mr. Manoj Kumar,
AGP for Home**

The Court made the following:

ORDER: (per the Hon'ble the Acting Chief Justice Raghvendra Singh Chauhan)

Mrs.Rizwana Begum, the petitioner, has filed this Habeas Corpus Petition *inter alia* on the ground that her son, Mohd.Ateeq, and her daughter-in-law, Noof Jasim alias Meraj Begum, have gone missing.

By order dated 17.04.2019, this Court had directed the respondent Nos.1 to 7 to produce both Mohd. Ateeq, and Noof Jasim alias Meraj Begum.

Consequently, today, Noof Jasim alias Meraj Begum has been produced before this Court by the respondent No.6, the Station House Officer, Falaknuma Police Station, Hyderabad.

This Court has spoken to Noof Jasim. She informs this Court that she and Mohd. Ateeq have known each other for the last three years, as they happen to be neighbours. She further claims that since both fell in love with each other, they planned to marry each other. However, her mother and the paternal side of her family were unwilling to permit her to marry Mohd. Ateeq. Despite her best efforts to convince her parents, even to the extent of self-harm, she finally informed Mohd. Ateeq that her parents are planning to marry her off to someone else. Faced with this scenario, she called Mohd. Ateeq to come to her house, and to take her away from the custody of her parents. She claims that subsequently, both of them married each other according to the Muslim customs and rites. There is a video of her "Nikah" available in her cell phone. She has produced her cell phone before this Court,

which clearly shows that Mohd. Ateeq and she are married. She further informs this Court that the “Nikah Nama” would be available only on 2nd May, 2019, and not before. She further states that since her parents are against her marriage to Mohd. Ateeq, since they may endanger her life, she no longer feels safe and sound with her parents. Therefore, she would like to return to Mohd. Ateeq and the family of the petitioner.

Dr. J. Vijayalaxmi, the learned counsel for the petitioner, states that even in the First Information Report lodged by Rabiya Begum, the mother of Noof Jasim, she has clearly stated that Noof Jasim happens to be about 19 years old. Therefore, according to the mother herself, Noof Jasim happens to be a major, although now she claims that Noof Jasim happens to be a minor girl aged 17 years. The learned counsel further submits that when Mohd. Ateeq and Noof Jasim were recovered by the police, they had discovered certain gold ornaments, which Noof Jasim was carrying with her. The gold ornaments are presently in the custody of the police.

Mr. Srinivas, the Inspector of Police, corroborates the plea raised by the learned counsel for the petitioner. He has informed this Court that when Noof Jasim and Mohd. Ateeq were recovered, Noof Jasim was carrying a bag, which contained certain gold ornaments belonging to her mother.

Therefore, the learned counsel for the petitioner submits that in order to rebuild the trust and emotional bond between Noof Jasim and her mother, it would be in the interest of both the parties if the gold ornaments are directed to be returned by the police to Rabiya Begum, the respondent No.9 in the presence of Noof Jasim.

The learned counsel further pleads that even the custody of Mohd. Ateeq in judicial custody is an illegal one. For, according to the police, after recovery of Noof Jasim, they have changed the FIR from the one '*girl missing*' to an FIR for the offence under Section 363 I.P.C. Since Section 363 I.P.C. is a bailable offence, the police was not even justified in denying a bail to Mohd. Ateeq. Since Mohd. Ateeq presently happens to be in judicial custody, but as he is alleged to have committed a bailable offence, his custody is patently illegal. Therefore, the learned counsel pleads that Mohd. Ateeq should be set at liberty forthwith by the Superintendent of Central Jail, Chanchalguda, Hyderabad.

The plea raised by the learned counsel for the petitioner has not been contested by the learned Assistant Government Pleader for Home. For, even the learned Assistant Government Pleader agrees that an offence under Section 363 I.P.C. is a bailable one.

Considering the statement made by Noof Jasim alias Meraj Begum, considering the fact that she is now lawfully married to Mohd. Ateeq, considering the fact that Mohd.

Ateeq is her lawful guardian, this Court directs the respondent No.6 to restore the custody of Noof Jasim to Rizwana Begum, the petitioner before this Court. This Court further directs the respondent No.6 to return the gold ornaments recovered from Noof Jasim to respondent No.9- Rabiya Begum in the presence of Noof Jasim. This Court further directs the Superintendent of Central Jail, Chanchalguda, Hyderabad, to immediately release Mohd. Ateeq as he has allegedly committed a bailable offence.

The learned Assistant Government Pleader for Home is directed to ensure that this order becomes part and parcel of the case diary in FIR No.117 of 2019 registered for the offence under Section 363 I.P.C. at Falaknuma Police Station, Hyderabad.

With these directions, this Habeas Corpus Petition is hereby allowed.

(RAGHVENDRA SINGH CHAUHAN, ACJ)

(A.RAJASHEKER REDDY, J)

Date: 18.04.2019

Note: The Registry is directed to immediately inform the Superintendent of Central Jail, Chanchalguda, Hyderabad, about the direction issued by this Court to set Mohd. Ateeq at liberty forthwith.

B/o
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