

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 503 OF 2020

Dr.Shri.Vijaykumar Bhupal Bhave ...Petitioner

Versus

The State of Maharashtra & Ors. ...Respondents

.....
Mr.Vijay Killedar for the Petitioner.
Mrs.M.M.Deshmukh, APP for Respondent No.1-State.

.....

**CORAM : S.S. SHINDE &
V.G.BISHT, JJ.**

DATE : FEBRUARY 14, 2020

P.C.:

1. This Writ Petition is filed under Article 226 of the Constitution of India with following substantive prayer :

“(a) This Hon’ble Court be pleased to issue writ of habeas corpus and/or pass any other writ, order or direction including in the nature of writ of habeas corpus and thereby be pleased to direct the Respondents to cause production of the daughter of the Petitioner viz. Shreyashi Vijaykumar Bhave before this Hon’ble Court and after securing presence of the daughter of the Petitioner viz. Shreyashi Vijaykumar Bhave in this Hon’ble High Court, further suitable orders/ directions in respect of safety and well being of minor child, in the manner in which this Hon’ble High Court may deem fit and proper may be passed, to secure the ends of justice.

2. The learned Counsel for the petitioner submits that the petitioner had filed Civil Misc. Application No. 15 of 2016 before the learned Ad-hoc District Judge-1 Ichalkaranji. The said Court allowed the said Application, at Exhibit 1, vide order dated 18th July, 2018 and directed the opponents therein to deliver the custody of the child Kum. Shreyashi Vijaykumar Bhave within two months from the date of passing of the order. On their failure to deliver the custody of the child to the applicant i.e., petitioner herein, it is observed that the applicant is at liberty to execute the order passed by the said Court and have the custody of minor child Kum. Shreyashi Vijaykumar Bhave.

3. Thereafter, the petitioner herein filed Regular Darkhast No. 1 of 2018 (Vijaykumar Bhave Vs. Pooja Karande). In the said Regular Darkhast, the learned District Judge- 2, Ichalkaranji issued search warrant under Section 100 of the Code of Criminal Procedure empowering the Police Inspector or a police person appointed by him to enter in the house of opponent No.2 Shri Pandit Kalappa Karande and search for ward Shreyasi and if the ward found there, take the custody of the ward Shreyasi and hand it over custody to the applicant and report the compliance of the said order to the Court of District Judge -2, Ichalkaranji.

4. It is the submission of learned Counsel appearing for the petitioner that though search warrant has been issued on 10th April, 2019, there is no compliance of the order dated 18th July, 2018 passed by learned Ad-hoc District Judge-1 Ichalkanraji directing the opponents therein to deliver the custody of the child Kum.Shreyashi Vijaykumar Bhave to the applicant i.e., petitioner herein.

5. The learned Counsel appearing for the petitioner submits that the petitioner has invoked writ jurisdiction since his daughter is in illegal custody of respondent No.4 – Shri Pandit Kallappa Karande.

6. We have considered the submissions of learned Counsel appearing for the petitioner and also perused annexures to the petition and aforementioned two orders passed by learned Ad-hoc District Judge-1 Ichalkaranji and learned District Judge -2, Ichalkaranji respectively. We are of the opinion that these orders are passed by Court of competent jurisdiction and therefore, for effective execution of said orders, it is open for the petitioner to approach the District Court i.e., learned District Judge -2, Ichalkaranji by filing further application. Since the petitioner had already availed an appropriate remedy and the said Courts have passed appropriate orders and granted relief to the petitioner, and

also search warrant has been issued, in our opinion, multiplication of the proceedings would not serve the purpose.

7. In case the petitioner files an application before the Court of District Judge-2 Ichalkaranji, the said Court shall ensure that the order passed on 10th April, 2019 is executed expeditiously keeping in view the sensitivity of the subject matter of the proceedings. The concerned Court shall exercise its jurisdiction and ensure that all possible steps are taken by the executing authority to execute the orders passed by the said Court.

8. With the above observations, Writ Petition stands disposed of.

(V.G.BISHT, J.)

(S.S. SHINDE, J.)