

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 2671 OF 2019

Vinayak Yogesh Sharma

...Petitioner

Versus

The State of Maharashtra and Ors.

...Respondents

Mr. C.P. Shenvi i/by Mr. R.R. Mishra for the Petitioner.

Mrs. S.V. Sonavane, APP for Respondent – State.

Mr. Jagdish B. Choudhary i/by Raj Legal for Respondent No. 3.

CORAM : S. S. SHINDE &
N. B. SURYAWANSHI, JJ.

DATE : 24th JANUARY 2020

PER COURT :

1. This Writ Petition is filed with following substantive prayer:

a. That this Hon'ble Court be pleased to issue a Writ of Habeas Corpus or any other Writ in the nature of Habeas Corpus against the Respondents and be directed to produce his wife Priyanka d/o Govindram Suthar before this Hon'ble Court and handover the custody to the Petitioner,

2. Pursuant to notices issued to the Respondents, 3rd Respondent has filed reply. In paragraph 6 of the said affidavit in reply it is stated that, on 06th December 2018 the Petitioner had come to native place of 3rd Respondent

and tried to take law in his hands and therefore, his daughter Ms. Priyanka filed complaint with Police Station but no cognizance was taken by police. Therefore, Ms. Priyanka filed private complaint before the Court of competent jurisdiction invoking provision of Section 156(3) of Cr.P.C. Pursuant to directions issued by the concern Court FIR bearing CR No. 47 of 2019 has been registered against the Petitioner for the offences punishable under Sections 452, 365, 323, 471 and 120(B) of the Indian Penal Code. It is further stated in paragraph 10 of the reply that Ms. Priyanka is already approached the Court of competent jurisdiction for declaration of nullity of marriage of Petitioner and Ms. Priyanka.

3. Learned counsel appearing for the 3rd Respondent has tendered across the bar details about listing of the proceedings instituted by Ms. Priyanka for declaration of nullity of marriage before the concern Court. Same is taken on record and marked 'X' for identification. It appears that, said proceeding were heard on 03rd December, 2019 and stage of those proceedings is shown awaiting service of notices / summons.

4. It is the submission of the counsel appearing for the Petitioner that, the marriage of the Petitioner with Ms. Priyanaka is inter caste marriage and 3rd Respondent is causing disturbance in their relations. It is further submitted that, Ms. Priyanka under pressure and coercion of 3rd Respondent

has instituted proceedings against him. In short his submissions is that Ms. Priyanka is illegally detained and confined by 3rd Respondent.

5. To counter the aforesaid submissions, learned counsel appearing for 3rd Respondent invites attention of this Court to the affidavit in reply and submits that, Ms. Priyanka is not illegally detained, and it is her voluntary act to institute the proceedings for declaration of nullity of marriage between Petitioner and herself.

6. Upon appreciating the rival contentions and on perusal of affidavit in reply and in particular averments in paragraphs 6, 7, 9 and 10 thereof, and the fact that already the concern Court is seized with the proceedings instituted by Ms. Priyanka for declaration of nullity of marriage, it is not possible to accept the contention of the Petitioner that Ms. Priyanka is illegally detained by 3rd Respondent.

7. In that view of the matter, it is clear that Ms. Priyanka is not in illegal or improper detention of 3rd Respondent, the question of issuance of writ of habeas corpus would not arise. Hence, we do not find substance in the Writ Petition and same is accordingly rejected.

(N. B. SURYAWANSHI, J.)

(S. S. SHINDE, J.)