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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO.49 OF 2021

Somnath s/o Prakash Varma

..PETITIONER

VERSUS

The State of Maharashtra & ors.

..RESPONDENTS

Mr B. R. Waramaa, Advocate for petitioner;

Mr S. D. Ghayal, APP for respondent Nos.1 to 5

**CORAM : RAVINDRA V. GHUGE
AND
B. U. DEBADWAR, JJ.**

DATE : 28th January, 2021

PER COURT:

1. By this petition, the petitioner has prayed for issuing the writ of Habeas Corpus. Since it was averred in the petition that his wife Madhuri Somnath Verma has been illegally detained and confined to village Samidhi, Tq. and Dist. Bundi, State of Rajasthan, by respondent No.6, this Court had passed an order on 15-01-2021, directing the respondent-Police Authorities to produce the said lady before this Court. It was also observed in the order that the petitioner has given the probable address of the lady and therefore, she should be traced out.

2. Today, this matter was not on board. The learned Prosecutor mentioned at 1.30 p.m., before rising for lunch, that the lady has been

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brought to Aurangabad by the Police Authorities pursuant to our order dated 15-01-2021. On this statement, we have taken this matter on the production board and we have directed the learned Prosecutor to ensure that Shri. Waramaa, learned Advocate for the petitioner, is intimated of this development. This matter was then called out at 2.30 p.m. after lunch and Advocate Shri. Waramaa, along with his client were ready to proceed with the matter.

3. The learned Prosecutor, on instructions from Shri S.A. Bhorkade, Police Sub-Inspector, Dhule Taluka Police Station, has placed before us a compilation of documents (16 pages), which are taken on record and marked as 'X' collectively, for identification. From the report of Shri. Bhorkade at page '00', dated 28-01-2021, the lady was found at Samidhi, Tq. Nainwa, Dist. Bundi. With the aid of Police Station, Karwar, Tq. Nainwa, Dist. Bundi, Rajasthan, the lady was found residing with respondent No.6.

4. According to the report of Shri. Bhorkade, the lady informed him that she was residing of her own will and desire, and nobody has detained her or confined her illegally in village Samidhi. At page 1 of the compilation 'X', the lady's statement has been recorded on 28-01-2021. Shri. Bhorkade informs that the said statement was recorded in his presence and a Police Constable, whose signature is obtained. The lady has signed the said statement and has contended that she was not

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abducted or kidnapped or illegally confined at any place.

5. At page Nos. 2 and 3, we find the statement of the petitioner Somnath, which is recorded on 22-01-2021. Though he contends that his wife was kidnapped or abducted, he has stated in the last paragraph that, if his wife has left him by her own desire, she should dissolve the marriage with him by giving a divorce and alternatively, if she desires to cohabit with him as husband and wife, she may come along with him. Mr Waramaa, learned Advocate submits that his client confirms the said statement.

6. Considering that the Writ of Habeas Corpus was issued and as the lady, who was alleged to have been abducted, was present in the Court, we have put the following questions to her in the open Court, in the presence of the Police Authorities, learned Advocate Shri. Waramaa and the learned Prosecutor :-

Sr. No.	Question	Answer
(a)	Whether you were abducted or kidnapped ?	No.
(b)	During your stay, after you left your home at Dhule till you are produced in the Court today, whether you were victimized, harassed or physically abused or was any offence committed against you ?	No. I have left my home at my own will and desire and I do not want to reside with my husband.

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(c)	Is it true that you have sons by name Daksh, 9 years of age and Harsh, 5 years of age, both male children ?	Yes, both of them are my sons and they are presently residing with my husband. If he does not take care of them and gives me their custody, I will carry both the children with me.
(d)	Do you wish to reside with your husband ?	No, I do not want to reside with him.

The lady voluntarily said that she needs police protection till she crosses the Maharashtra border as she intends to go back to village Samidhi, Tq. Nainwa, Dist. Bundi, State of Rajasthan.

7. Learned Advocate Shri. Waramaa consulted his client, the petitioner, and stated that both the sons are presently residing with him. He further submits that the wife of the petitioner should be sent to a shelter home in Maharashtra.

8. We confronted the lady in the open Court as regards the suggestion made by Shri. Waramaa and she has said in open Court that she does not desire to be sent to any shelter home and she desires to leave the State of Maharashtra and go back to village Samidhi, Tq. Nainwa, Dist. Bundi, State of Rajasthan.

9. The said lady then reiterated that she needs police protection till she crosses the border of Maharashtra to go to Rajasthan State. Shri. Waramaa, learned Advocate, after consulting the petitioner in the Court, makes a solemn statement that the petitioner would not cause any physical harm to his wife, even if she desires to leave the State of Maharashtra and he would not indulge in any offence, as is the apprehension voiced by his wife.

10. Considering the above and taking into account that the lady, being an adult and a mother of two children, does not desire to return to her marital home with the petitioner, we permit her to be set free.

11. This petition having served its purpose and stands worked out, is disposed off.

(B. U. DEBADWAR, J.)

(RAVINDRA V. GHUGE, J.)

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