

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 608 OF 2021

Shaikh Shabana w/o Shaikh Rafiq
Age 48 years, Occ. Household,
r/o Indiranagar, Depot Road,
Vaijapur, Taluka Vaijapur,
District Aurangabad.

... Petitioner

Versus

1. The State of Maharashtra
Through Superintendent of Police,
S.P. Office (Rural), Aurangabad.
2. The Dy. Superintendent of Police,
Office at Vaijapur, Taluka Vaijapur,
District Aurangabad.
3. The Police Inspector,
Vaijapur Police Station,
Taluka Vaijapur,
District Aurangabad.

... Respondents

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Mr. Narendra D. Sonavane, Advocate for the Petitioner.
Mr. G. O. Wattamwar, APP for Respondent Nos. 1 to 3

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**CORAM : V. K. JADHAV AND
SHRIKANT D. KULKARNI, JJ.
DATED : 28th JUNE, 2021**

ORAL JUDGMENT (PER V. K. JADHAV, J.) :-

1. Rule. Rule made returnable forthwith. By consent heard finally at admission stage.

2. By this petition the petitioner is seeking a writ of Habeas Corpus in respect of her son Shaikh Atik Shaikh Rafiq. It has been alleged that the son of the petitioner, namely, Shaikh Atik Shaikh Rafiq is illegally detained by one Mahek Hanif Shaikh and her family residing at Shakur Seth Colony, Govindwadi, Behind Mohammadiya School, Kalyan (East). It is further stated that said Mahek Hanif Shaikh and her brother were at Vaijapur and met with the missing son Atik and told him that they are going to give him a good job at Mumbai and he will also get good returns on the said job. Believing them, said Atik left Vaijapur in the month of January 2021 along with said Mahek. At the end of the month of January, the missing son Atik called the petitioner and told her that he is not allowed to leave the house of Mahek and he is subjected to beating by the family members of Mahek. He has been illegally detained. The petitioner has also contacted said Mahek and her family members, but they threatened the petitioner that if she insist for the release of Atik, she will have to pay certain amount.

3. We have passed orders time to time for production of missing Shaikh Atik before the Court and accordingly, the missing Shaikh Atik is brought today before the Court by the Police Inspector of Vaijapur Police Station.

4. We have carefully perused the report submitted by the Police Inspector Mr. Samratsing Rajput, Police Station Vaijapur. We are shocked by the facts disclosed in the report. It is stated in the report that said Mahek is the wife of missing Shaikh Atik and their relations have been strained. Consequently, the wife of missing Shaikh Atik, namely, Mahek, is residing separately with her family members. There is a matrimonial dispute. It is further stated in the report that in order to teach a lesson to said Mahek, the petitioner herself in collusion with the missing son Shaikh Atik, who is major aged 27 years, and also in collusion with her elder son Shaikh Asif, secretly kept the missing son Shaikh Atik in Draupadi Lodge, Vaijapur. It has been specifically stated in the report that the petitioner has used the police machinery so also the Court for her oblique motive.

5. Learned counsel for the petitioner at this stage informs the court that despite his specific query about the relations between the petitioner Shaikh Shabana Shaikh Rafiq and said Mahek, the petitioner has not disclosed to the counsel that said Mahek is the wife of her missing son Shaikh Atik.

6. The missing Shaikh Atik is now produced before us at 3.30 p.m. We have interacted with him in the open court. He told us that on his own, he went to Nashik and stayed in one Shahenshah Wali Dargah. He has disclosed to us that said Mahek is his wife and their relations have been strained to a considerable extent. Consequently, said Mahek is now residing with her parents. He has disclosed to us that there is a matrimonial dispute.

7. We thus find substance in the report submitted by the police. It appears that the petitioner has not only used the police machinery for her oblique motive to teach a lesson to her daughter-in-law Mahek, but also used the Court by suppressing the material fact from her counsel for filing the present Habeas Corpus Writ Petition. We have taken a serious note of it. We have decided to impose heavy costs on the petitioner. So far as the missing Shaikh Atik who is before us at present, since he is major and further, stated before us in the open Court that there is no illegal detention, we set him free. We accordingly proceed to pass the following order:

ORDER

I. The missing Shaikh Atik Shaikh Rafiq is at liberty to pursue his further activities and to live his life in accordance with law.

II. The petitioner shall pay costs of Rs.50,000/- (Rupees Fifty Thousand Only) which shall be deposited before this Court within a period of two months.

III. The costs so deposited by the petitioner shall be paid to the High Court Legal Services Sub Committee, Aurangabad.

IV. We also make it clear that the concerned police station is at liberty to register a separate crime against the petitioner, her elder son Shaikh Asif Shaikh Rafiq and the missing son Shaikh Atik Shaikh Rafiq.

V. We accordingly discharge the Rule of Habeas Corpus. The Criminal Writ Petition is accordingly disposed off.

(SHRIKANT D. KULKARNI, J.)

(V. K. JADHAV, J.)