

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

WRIT PETITION NO.456 OF 2022

Madhavi @ Monika Haridas Dave
@ Monika Gajendrakumar Pandya
D/o Gajendrakumar Dwarkadas Pandya ... Petitioners
Vs.
Haridas Gautamkumar Dave and Anr ... Respondents

Ms. Madhavi @ Monika H. Dave, Petitioner in person.
Mr. Haridas Gautamkumar Dave, Respondent No.1 in person.
Mr. J.P. Yagnik, APP, for the respondent – State.

**CORAM : PRASANNA B. VARALE, J. &
S.M. MODAK, J.**

DATE : 08 MARCH 2022

P.C. :

1. Heard the Petitioner in person Respondent No.1 husband appeared in person also heard him, also heard Learned APP.

2. The Petitioner and Respondent No.1 are the spouses. There are 2 children born out of said wedlock. They are Drusha 2 years and Neelmadhav aged 8 years. This is the petition for producing both the children in the court.

3. At present both the children are staying with their father Respondent No.1. Petitioner had come up with the

grievance that she is not allowed to meet them by the husband Respondent No.1. We are afraid that Writ of Habeas Corpus can be issued.

4. Admittedly, there is a divorce petition pending before the Family Court Bandra, at the instance of Respondent No.1 husband. So also there is a custody Petition No. D/114/2021 pending before Family Court Bandra, at the instance of the Petitioner mother. It is at the stage of counseling. Respondent No.1 contend that the petitioner is giving limited access to both the children. Petitioner has a grievance of not giving punctual access.

5. There is a Transfer Petition filed before the Hon'ble Supreme Court. The synopsis also mentions that she had also filed a Habeas Corpus petition before Hon'ble Supreme Court (Sr. No.15 of the synopsis). From the petition it is clear that the Petitioner has availed of the remedy before the Competent Court. So the Petitioner can agitate her grievances before the said Family Court. In view of that, we are not inclined to entertain the Petition. It is not the case of wrongful confinement by the father. Respondent No.1 has under taken to file reply in that custody petition. So no case for interference by the Writ Court is made out hence Petition is disposed of.

(S.M. MODAK, J.)

(PRASANNA B. VARALE, J.)