



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL WRIT PETITION NO.783 OF 2023

Imran Ramzan Sheikh s/o Ramzan Nazir Sheikh and anr.

..VS..

State of Maharashtra and ors.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Smt S.P. Giratkar, Advocate for the petitioners.

Ms. Haider, Addl.P.P. for the State.

Shri M. Shareet and Shri Aadil J. Mirza, Advocate for
respondent nos. 4 and 5.

CORAM : VINAY JOSHI AND M.W.CHANDWANI, JJ.
DATED : 08/11/2023.

The reply is filed in the Court and the same is
taken on record.

2. Heard.

3. The petitioners who are the biological parents of
the minor child aged 3 years have sought a writ of
Habeas Corpus alleging that the minor has been detained
in the wrongful custody of respondent nos. 4 and 5.

4. Admittedly, under an Agreement dated
16.11.2020, the minor has been handed over in the
custody of respondent nos. 4 and 5 for grooming the
child. Undisputedly, respondent no.5 is the real sister of
biological mother i.e. petitioner no.2. The parties are
governed under the Muslim Law.

5. It is brought to our notice that the petitioners
have also applied to the Magistrate for issuance of search
warrant under Section 97 of the Code of Criminal
Procedure where they failed. The said order was not
challenged. Respondent nos. 4 and 5 have applied to the

Competent Court under Section 7 of the Guardians and Wards Act seeking the guardianship of the minor. In said petition, also present petitioners have appeared and filed certain applications.

6. Undisputedly, the minor is attending School and continuously staying in the company of respondent nos. 4 and 5 from last three years. In the circumstance, the custody of respondent nos. 4 and 5 cannot be termed as an illegal detention to invoke the prerogative writ of Habeas Corpus of this Court.

7. In view of the above, we are not inclined to exercise our discretion in favour of the petitioners to issue a writ. The petitioners may resort to the remedies available under the law to seek the custody of the minor.

8. The Petition stands disposed of. No costs.

(M.W.CHANDWANI, J.)

(VINAY JOSHI, J.)

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