

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 111 OF 2024

Rupal Dhiren Talati .. Petitioner

Versus

State Of Maharashtra And Ors. .. Respondents

...

Mr. Viral Bhanushali, for the Petitioner.

Ms. M. M. Deshmukh, A.P.P. for the State/Respondent.

Mr. Aabad Ponda, Senior Counsel i/b Mr. Srinidhi Sonak, for the Respondent No.4.

Mr. Vitthal Yashwant Pardhi, PSI, Pantnagar Police Station, is present.

...

**CORAM : BHARATI DANGRE &
MANJUSHA DESHPANDE, JJ.**

DATED : 25th NOVEMBER, 2024

P.C:-

1. On 17.10.2024, we have recorded a statement made on behalf of the Respondent No.4 through the learned senior counsel Mr. Ponda, when he agreed that during Diwali Vacation he shall arrange for the travel of the Petitioner and also cater to her stay for seven days and this shall include the travel expenses as well as the lodging and boarding.

The order apparently is not complied, since

according to the learned counsel for the Petitioner, the passport of the Petitioner is with the husband. This statement is categorically denied by Mr. Ponda. In any case, we do not intend to go into the said controversy, since we are of the opinion that the Petitioner shall take all necessary steps to either obtain a duplicate passport or a fresh passport by approaching the authorities and accordingly she has already made an application which is pending.

2. Mr. Ponda, the learned senior counsel has invited our attention to the pleadings in the Petition, and on its perusal we could take cognizance of the assertion, that the Respondent No.4 eloped with the minor daughter on 11.10.2021 to United Kingdom and removed the daughter from her custody who was all the while taking care of her physical and emotional needs.

Our attention is invited to the Petition filed before the Family Court at Bandra, in form of an Application for custody of child under Section 26 of the Hindu Marriage Act, 1955 and for the child maintenance under Section 125 of the Code of Criminal Procedure ("Cr.P.C."), where permanent custody of the minor daughter Disha is claimed alongwith a monthly amount towards her maintenance. The said Petition being filed on 09.12.2024 is pending before the Family Court at Bandra.

In addition, the Petitioner has also approached the Magistrate under provisions of the Protection of Women from Domestic Violence Act, and sought appropriate directions which include the amount of maintenance, protection under

Section 18, the orders as regards residence under Section 19 and custody of the daughter under Section 21.

3. From reading of the Application and pleading therein, it is evident that the Petitioner is aware that her minor daughter is with the Respondent No.4, and since the limited purpose of the habeas-corpus' Petition is to assess about the whereabouts of the corpus and since the Petitioner reiterate that she is with the father on the address which is mentioned at page No.113 as C/o Vaishali Pranalal Talati, Belmont Ave, Belmont, HA3 9QJ, London, UK.

Mr. Ponda assertively state that the Respondent No.4 continued to reside on the said address.

4. Taking note of the pleadings in the Petition and the fact that the Petition is instituted only in the month of October 2023 and before which the Petitioner has already approached the Competent Court i.e. the Family Court, under the Hindu Marriage Act and also sought her custody under in the DV proceedings filed before the Magistrate, which are pending, we have no hesitancy in concluding that the Petitioner is aware that her minor daughter is with the Respondent No.4, and since a specific assertion comes from Mr. Ponda about her residential address with an undertaking that if there is any change in the address, he shall keep the Petitioner updated about the same, we are of the firm view that the Petition seeking issuance of a writ in nature of habeas-corpus do not deserve any consideration.

While disposing off the Petition we however record the statement of Mr. Ponda that the offer which he had made and which we had recorded in our earlier order dated 17.10.2024 shall be valid for the Easter Holidays, which fall in the month of March - April, 2025. In addition Mr. Ponda also make a categorical statement that if the Petitioner at all want to visit the daughter any time before that, bearing her own expenses for travel, lodging and boarding, she is free to visit her.

5. Contention of the Petitioner that the daughter should be brought to India, do not deserve consideration at our instance and it is open for the Petitioner to approach the Family Court where the Custody Petition is already filed praying for such an interim direction.

We also direct that the Petitioner-mother shall be permitted to avail video-access of the child twice in a week as per the convenience of the child.

In the wake of the above, the Petition stand disposed off.

(MANJUSHA DESHPANDE, J.)

(BHARATI DANGRE, J.)