

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION (ST) NO.17297 OF 2021**

Versus

The State of Maharashtra and Ors.	...	Petitioners
	...	Respondents

Mrs. Deepa Chawan with Ms. Manjiri Shah, Mr. Ravindra Chile i/by Navedeep Vora and Associates, for Petitioners.

**CORAM: S.J. KATHAWALLA &
SURENDRA P. TAVADE, JJ.**

**DATE : 5th NOVEMBER, 2021
(VACATION COURT)**

P.C. :

1. Not on Board. Upon mentioning, taken on Board.
2. The Petitioner No. 1 is aged 23 years and the legally wedded wife of the Petitioner No. 2 aged 22 years. Both have been presently residing inter-alia at the address mentioned in the Cause Title of the Petition. The Petitioner No. 1 is B.Com graduate. The Petitioner No. 2 holds a Bachelor of Management Studies (BMS) degree. Both the Petitioners are from the same village, namely Chaubari Village, Bachao Taluka, Gujarat. The Petitioners belong to diverse castes. The Petitioner No. 1 belongs to the Ahir caste. The Petitioner No. 2 belongs to the Brahmin Caste.
3. The Respondents No. 1, 2, 3, 10 and 11 are the State of Maharashtra and the Police Authorities in Maharashtra and Gujarat.
4. Before we set out the detailed facts in the matter, it is important to point

out that on or about 7th May, 2021, the Petitioner No.2 filed a Criminal Writ Petition No.1991 of 2021 seeking relief under Article 226 of the Constitution of India for issuing a Writ of Habeas Corpus for production of his wife, i.e. the Petitioner No.1 herein. The prayers in the said Writ Petition are reproduced hereunder :

- “a) That this Hon’ble Court may be pleased to issue writ of Habeas Corpus directing the Respondents to produce the Petitioner’s wife before this Hon’ble Court;
- b) That this Hon’ble Court may be pleased to issue any other appropriate writ directing the Respondents as necessary in the interest of justice.

5. st On 21 May, 2021, the above Writ Petition was heard through video conferencing as the Pandemic had restricted physical hearing of the matter. According to Petitioner No. 1, at the time of the said hearing, she was under grave coercion, pressure, threat of violation, humiliation, and was forced to make false statements and submissions against the Petitioner No. 2 and allege that the Petitioner No. 2 was in possession of her photographs when she was in a relationship with him, and that the Petitioner No.1 had threatened to circulate the said photographs amongst friends and relatives, and therefore, the Petitioner No. 1 was compelled by blackmailing, to get married to the Petitioner No.2, against whom criminal proceedings were pending. According to the Petitioner, during her statement before the Court, the Petitioner No. 1 under pressure and threat had stated that even her statement dated 24.12.2020

before the Police Authorities at Powai Police Station had been made under pressure and threat.

6. According to the Petitioner, when she was addressing the Court through video conferencing, she was seated between one Advocate Mr. Shukla and the Respondent No. 5. Her father the Respondent No. 4 was also present in the said room. The Respondents Nos. 8 and 9 were also present along with some other community members of Ahir Community. The Airpods had been shared between the Petitioner No. 1 and her brother the Respondent No. 5. The room in which the Petitioner No. 1 was seated was fully equipped with video cameras recording the proceedings and particularly the statement that was being given by the Petitioner No. 1 to this Court. The proceedings were also being video recorded by the family members of the Petitioner No. 1 and other members of the Ahir Community on their respective mobile phones. Thus, the statement made by the Petitioner No. 1 was under duress, coercion and pressure and not of her own free will and volition. She was threatened that she would be exposed to the wrath of the entire "Ahir" Community if she digressed from any statements she had been tutored to make.

7. This Court without realizing what was happening at the other end, accepted the statement of Petitioner No.1 and dismissed the Writ Petition.

8. Today, the Petitioner No.1 approached this Court with a written representation/Letter setting out therein, the cruel treatment meted out to her, her

family members as well as members of the Ahir Community after she got married with the Petitioner No.2 and the aforesaid circumstances under which she made the statements before the Court. The contents of the said Letter illustrates the extremely cruel treatment meted out to the Petitioner No.1 physically as well as mentally by the family members of Petitioner No.1 and Respondent Nos.6, 7 and 8. Despite being married to Petitioner No.2, she was offered in marriage to Respondent No.6, who exploited her mentally and physically (including indulging in sexual assaults). As stated above, the persons responsible for inflicting such cruel treatment were none other than the parents of the Petitioner No.2, Respondent Nos.6 (to whom she was offered in marriage by her parents) and Respondent Nos.8 and 9, who are the community heads and the Sarpanch of Village.

9. Petitioner No.1 also informed us how she is receiving threats from her parents and Respondent Nos. 6, 8 and 9. She has also informed us that few days back, the father of Petitioner No.2 was physically assaulted by the family members of the Petitioner No.1 and a complaint in this regard is filed with the Powai Police Station.

10. Realizing that the Petitioners need immediate protection, we requested Advocate Ms. Deepa Chawan and Advocate Ms. Manjiri Shah and Shri Navdeep Vora to hear the Petitioners and assist them in taking out appropriate proceedings. Despite very limited time at their disposal, the said Advocates have drafted a Criminal Writ Petition and have moved this Court for urgent reliefs.

11. In the said Petition, apart from the aforestated facts, the following facts are set out, which shows the extent to which that the Petitioners have suffered at the hands of Respondent Nos.4 to 9 and the extent to which the said Respondents have stooped to cause mental and physical harassment to the Petitioners since their marriage, i.e. since December, 2020.

12. To ensure that the Petitioner No.1 is forced to return to Chaubari Village of Bachao Taluka, Gujarat, the Respondent No.6 has also filed a police complaint alleging that the Petitioner No.1 has stolen an amount of Rs.50,000/- from his house along with jewellery worth Rs. 7 to 8 lakhs and has got a notice issued by Bachao Police Station calling upon her to attend the Police Station within a period of 7 days from the

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date of service of the Notice dated 26 October, 2021.

13. Over and above the aforestated facts, the facts narrated in the Petition are in brief set out hereunder :

13.1 On or about 05.02.2020, the Petitioners left from Mumbai fearing parental wrath from the parents of the Petitioner No.1 with respect to their relationship. The Petitioners are committed to each other, and share love and affection for each other. The Petitioners belong to different castes though they hail from the same village. Their friendship was frowned upon by the parents and relatives of the Petitioner No. 1. It was in these circumstances, that the Petitioners eloped.

- 13.2 On or about 15.02.2020, the Petitioners returned to Mumbai.
- 13.3 On or about mid-March 2020, the Petitioner No. 1 under severe duress, parental pressure and coercion was forced to file a false case against the Petitioner No. 2, alleging inter-alia rape, kidnapping, etc.,
- 13.4 On or about 16.03.2020, the Petitioner No. 2 was arrested. The Petitioner No. 2 remained in jail for nearly four and a half months.
- 13.5 Thereafter, the Petitioner No. 1 was forcibly taken to Gujarat and engaged against her wishes to one Mr. Amit Savji Varchand.
- 13.6 On or about 23.12.2020, the Petitioner No.1 and her parents returned back to Mumbai at their residence at Jogeshwari.
- 13.7 On 24.12.2020, the Petitioners No. 1 and 2 married each other at the Shri. Sainath Vivah Karyalay at Thane, of their own free will and volition. The Petitioners are adults and independently decided to get married out of love for each other.
- 13.8 On 24.12.2020, post the Petitioner No. 1 leaving her residence at Jogeshwari and getting married to Petitioner No. 2, the Petitioner No. 1's brother and maternal uncle along with the local Shiv Sena Shakha Pramukh informed the Police Authorities at Powai that they had absolutely nothing to do with the Petitioner No. 1 and were unconcerned about her or her marriage.
- 13.9 However, at night on the same day, one of the family members of the

Petitioner No. 1 called the Petitioner No. 2 on his mobile phone and threatened him. This was an unknown mobile no. and the person speaking to the Petitioner No. 2 only identified himself as a family member of the Petitioner No. 1.

13.10 On 24.12.2020, the Petitioner No. 2 being aware of the threat to the life and person of both the Petitioners, had filed an intimation with the local police station, i.e. the Powai Police Station, about the marriage of both the Petitioners and their statement was recorded at the Police Station.

13.11 On 25.12.2020, the Petitioner No. 1 filed a police complaint in the jurisdictional police station, in view of the threat to her husband and herself.

13.12 On 29.12.2020, the Respondent Nos. 8 and 9 along with one of the relatives of the Petitioner No. 2 visited the Petitioners. These persons stated that due to the inter-caste marriage there was discord amongst the two communities in Chaubari Village and it would be appropriate if the Petitioner No. 1 were to visit the village and placate her Ahir Community over the marriage, so that things could settle down. It was represented to the Petitioners that this action on the part of the Petitioner No. 1 was imperative in order to ensure that the purported caste violence in the village which has erupted, would abate.

13.13 Accordingly, the Petitioner No. 1 went to the village Chaubari under the bonafide belief that she would soothe and allay the fears of her Ahir Community and point out that the Petitioner No. 2 whom she had married was well educated and that

she had married the Petitioner No.2 out of love and affection and her own free will.

13.14 On or about 01.01.2021, the Petitioner No. 1 was hauled up before a crowd of about 100 to 150 persons, mainly belonging to Ahir Community from which the Petitioner No. 1 hails. The Petitioner No. 1 was taunted, abused, humiliated. The Petitioner No. 1 was a solitary woman amongst this crowd of about 100 to 150 persons displaying temper for an inter-caste marriage. The entire crowd seemed to be baying for her blood. About 5 to 6 persons from the said crowd physically assaulted the Petitioner No. 1. The Petitioner No. 2 recollects the names of two of these, namely Mr. Teja Parbath Patel, the brother of the Respondent No. 9 and one Mr. Kanani.

13.15 Thereafter, the Petitioner No. 1 was forced and coerced to file a police complaint against the Petitioner No. 2 in Chobari Village at the Bachao Police Station. The false complaint which the Petitioner No. 1 was coerced to file after the violence inflicted on her body and spirit, alleged that the Petitioner No. 2 had blackmailed her and forced her to marry him.

13.16 Thereafter, for following three months the Petitioner No. 1 was forced to visit the Police Station almost everyday and file false and frivolous complaints against the Petitioner No. 2 on many occasions.

13.17 On or about 07.01.2021, the Petitioner No. 2 lodged an NC against one Velji Bhai and Panchal Bhai, both residents of Chobari, Bachao Kutch, Gujarat who visited the Petitioners and took away his wife to her native place for a couple

of days without the permission of the Petitioner. That when Petitioner requested them to send his wife back they threatened him.

13.18 In or about April, 2021, the Petitioner No. 1 managed to go to Jamnagar, call the Petitioner No. 2 and confide the entire truth with the Petitioner No.

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13.19 On 29.04.2021, the Petitioner No. 2 filed a Police Complaint in respect of the abduction of his wife i.e. the Petitioner No. 1.

13.20 On 29.04.2021, the Petitioner No 2 addressed a complaint through his Advocate to the Commissioner of Police, Mumbai, DCP Zone X, ACP Saki Naka, Sr. P. I. Powai Police Station, Addl. CP West Region, Bandra, for registering an offence against Tejabhai Ahir the father-in-law of the Petitioner No. 2.

13.21 The facts pertaining to the Petitioner No.2 filing a Criminal Writ Petition No.1991 of 2021 for issuing a Writ of Habeas Corpus for production of

Petitioner No.1 and the circumstances in which the said Order dated 21st May, 2021 was passed are set out above.

13.22 On or about 24.05.2021, the Petitioner No. 1 was forced to marry the Respondent No. 6 belonging to the Ahir Community residing at Chaubari Village.

13.23 Post the marriage, the Petitioner No. 1 was physically and sexually assaulted by the Respondent No. 6. The Respondent No. 6 claimed to have

“**purchased**” the Petitioner No. 1 from her father i.e. Respondent No. 4 and Respondent No. 8 and 9 the Community Heads. The Respondent No. 6 claimed that in view of such purchase, the Petitioner no. 1 was his chattel and that the Respondent No. 6 was free to use her in whichever way the Respondent No. 6 desired. The Respondent No. 6 claimed to have paid money and jewellery to the Respondent Nos. 4, 8 and 9. The Petitioner No. 1 suffered rape, grievous assault including heinous grievous injury to her private parts deliberately inflicted by the Respondent No. 6, who even tried to injure her with burning cigarette butts.

13.24 This saga of violence, humiliation, rape, violation, grievous bodily injury and mental injury continued for the next few months.

13.25 On or about 13.08.2021, the Petitioner No. 1 managed to escape from the horrendous confines of the Chobari Village and reach Mumbai. The Petitioner No. 1 rushed to the residence of the Petitioner No. 2 and has been residing with his family, since then.

13.26 On the same day i.e. 13.08.2021, both the Petitioners intimated the local jurisdictional police station of the facts and about her presence at the residence of the Petitioner No. 2.

13.27 Thereafter, in or about August / September, 2021, the Respondent No. 4 and 7 started making threatening calls to one Mr. X and Mrs. Y, who were witnesses to the solemnization of the marriage of the Petitioners. The Petitioners have refrained

from disclosing the names of the witnesses, as the Petitioners fear for their safety. The Petitioners have disclosed the identity and details of the witnesses in a sealed cover and will also provide the same to the Police authorities. Both the witnesses received death threats and were also threatened that their children would be kidnapped.

13.28 On 13.09.2021, the Respondent No. 6, along with an unidentified person attacked the father of the Petitioner No. 2 with a cricket bat and stump at the residence of the Petitioners at Powai. The Police complaint filed against the Respondent No. 6, records in detail the grievous injury suffered by the Petitioner No. 2 and his father. This resulted in the arrest of the Respondent No. 6 and his release on bail after 4 – 5 days.

13.29 On or about 26.10.2021, a team of Police Personnel from Bachao Police Station, namely Constable Makwana and an unidentified lady constable, along with police personnel of Powai Police Station visited the residence of the Petitioners at Powai. The Petitioner No. 1's mother-in-law was handed over a copy of a notice in respect of a purported complaint against the Petitioner No. 1 alleging theft of Rs. 50,000/- cash and jewellery worth Rs. 7-8 Lakhs from the residence of the Respondent No. 6. It was alleged that the Petitioner No. 1 had fled to Mumbai post this theft, along with the cash and jewellery. The notice summoned the Petitioner No. 1 to the Bachao Police Station within 7 days of receipt of the notice. The said notice from Bachao Police though bears some signature, does not bear any official stamp of

the Police Station.

13.30 It is also understood that the police personnel made enquiries with the neighbours to ascertain the presence of the Petitioner No. 1 at the residence of the Petitioner No. 2 and the duration of her stay there.

13.31 The Petitioner No. 1 has not travelled to Bachao Police Station, in response to the Notice fearing for her life and safety.

14. It is submitted in the Writ Petition that the facts set out in the Petition clearly reveals the threat to the life and well being of the Petitioners. It is submitted that the Petitioners had approached the police authority for protection, but in vain and therefore it is necessary that this Court direct the Respondents by issuing appropriate Writs. It is also submitted that the local police authorities have refused protection and have not taken cognizance of any complaints attempted to be filed by the Petitioners on the specious plea that some of the incidents occurred in Gujarat.

15. In view of the above facts and circumstances, we are of the view that the life of the Petitioner Nos.1 and 2, and the family members of Petitioner No.2,

including two witnesses to their marriage solemnized on 24th October, 2020 are under threat and danger, and have to be forthwith provided round the clock police protection. The Commissioner of Police, Mumbai, the Additional Police Commissioner and the Deputy Police Commissioner – Zone X, the Assistant Police

Commissioner and the Senior Inspector of Police, under whose jurisdiction the Petitioner Nos.1 and 2, the parents of Petitioner No.2 and the two witnesses to their marriage are residing, shall forthwith provide round the clock police protection to the Petitioner Nos.1 and 2, the family members of the Petitioner No.2, including the two witnesses to their marriage. A copy of this Order duly authenticated by the Private Secretary of this Court shall forthwith be forwarded to the aforesaid police officials for appropriate action.

16. A copy of this Order shall also be forthwith forwarded to Ms. Aruna Pai, Chief Public Prosecutor, the Director General of Police, Gujarat, the Senior Inspector of Bachao Police Station, Gujarat. All these Police Officers at Gujarat shall produce a copy of this Order before the Courts at Gujarat, in the event that the police authorities or the Respondent Nos. 4 to 9 seek any orders against the Petitioner Nos.1 and 2 and/or the family members of Petitioner No.2 from any such Court.

17. Respondent Nos.1 to 3 shall be represented before this Court through

their Advocates on 10th November, 2021 at 2.30 p.m. Respondent Nos.4 to 9 are

directed to appear before this Court along with their Advocates on 10th November, 2021 at 2.30 p.m. If they fail to do so, the Court shall be constrained to pass necessary orders to ensure their presence before it. The Senior Inspector of the Powai Police

Station shall arrange to have a copy of the above Petition as well as a copy of this Order served on Respondent Nos. 4 to 9 and obtain their acknowledgment.

18. Stand over to 10th November, 2021 at 2.30 p.m.

(SURENDRA P. TAVADE, J.)

(S.J.KATHAWALLA, J.)