

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**

**R/SPECIAL CRIMINAL APPLICATION NO. 3175 of 2020**

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KOLI ( THAKORE) DASHRATHJI MAGAJI

Versus

STATE OF GUJARAT

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Appearance:

MR.KIRIT R CHAUDHARI(3745) for the Applicant(s) No. 1

for the Respondent(s) No. 2

NOTICE SERVED(4) for the Respondent(s) No. 10,11,12,3,4,5,6,7,8,9

MS JIRGA JHAVERI, ADDL. PUBLIC PROSECUTOR(2) for the  
Respondent(s) No. 1

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**CORAM:HONOURABLE MS. JUSTICE SONIA GOKANI**

and

**HONOURABLE MR. JUSTICE N.V.ANJARIA**

**Date : 16/09/2020**

**ORAL ORDER**

**(PER : HONOURABLE MS. JUSTICE SONIA GOKANI)**

1. On 04.08.2020 when this Court issued notice in the present petition, the following order came to be passed: -

*“Heard learned advocate Mr.Kirit Chaudhari for the*

*petitioner.*

*2. In this petition seeking writ of habeas corpus, it is the case of the petitioner-father that his daughter named Kamlaben aged 13 years-04 months has been kidnapped by respondent No.4. It is stated that one month ago also respondent No.4 had kidnapped his daughter but due to intervention of the community people, she was brought back. She is again forcibly taken away, it is stated on oath by the petitioner. The petitioner filed F.I.R. on 09th July, 2020 and gave further application on 17th July, 2020. However, her daughter is so far not traced out.*

*3. Notice, returnable on 13th August, 2020. Learned Additional Public Prosecutor Ms.Jirga Jhaveri waives service of notice on behalf of respondent Nos.1 and 2. Respondent No.3 is to be served through e-mode. Private respondents to be served through respondent No.3.*

*The corpus shall be brought before this Court on the returnable date, to be produced through video conference by bringing her at the nearest Court in presence of judicial officer. In the alternative, report regarding steps taken by the police shall be submitted.”*

2. The corpus was found on 13.08.2020 and when she was produced through video conference arranged at Palanpur District Court in presence of learned Additional District and Sessions Judge, the following order came to be passed: -

*“1. Corpus is brought before us today. She is 13 years and 04 months old as per the birth certificate. She does*

*not want to join the parents and insists on staying at Women Protection Home. She is presently housed at Women Protection Home, Palanpur.*

*2. Considering the age of corpus who is very young and the factum of her being scared of her parents, presently, while continuing her at Women Protection Home, we permit the parents to meet, with a caution that, it should be for the process of getting back the confidence of joining her parents.*

*3. Let her medical examination be completed soon along with recordance of statement etc. She shall not be permitted to meet the Respondent accused. Let her studies also, formal as well as vocational, be continued at the Women Protection Home. She shall be referred to the Counsellor for the purpose of counselling. Basic necessities if required by her, the same shall be provided by the police authority and if any financial difficulty is found, the District Legal Services Authority will step in.*

*4. Let this matter after be kept on 14.09.2020. The Corpus has been produced before us through the video conferencing in presence of Shri Robin Mongera, learned Additional District Judge, Palanpur at the Palanpur District Court. She shall be sent back today with a woman police constable at Women Protection Home, Palanpur. Learned Additional District Judge will ensure her safe return to the Women Protection Home.”*

3. Today, the corpus is produced before us through video conference arranged from the District Court, Palanpur. She is unwilling to join her parents as she is still scared of their

extreme reactions. However, she is happy to study further. She is in the 10<sup>th</sup> standard and is keen to pursue her studies. According to her, the teaching activity is undertaken at the Women Protection Home where one teaching staff attends to the students. On a deeper inquiry, we realize that the training of operating computers is not being imparted. We also noticed that the corpus has only two pairs of cloths with her and although the girls are being kept engaged in some activities of daily chores, the activities which may also prove to be beneficial for them eventually for becoming self sufficient, do not figure anywhere in the routine. It is therefore essential for the vocational guidance / training imparted to these girls which they may pursue.

4. We therefore while adjourning this matter after four weeks give following directions and make a request to the learned Additional District and Sessions Judge Mr. Mogera to ensure its implementation in consultation with the Principal District Judge, Palanpur who also happens to be Ex-Officio Chairperson of District Legal Services Authority, wherever necessary the consultation with the District Collector or the

Superintendent of Police of the district can be taken who shall also render their cooperation in the matter:

- (i) Let there be proper arrangement for the corpus to carry on formal education. For the said purpose, if there is a requirement of seeking admission in the school, for those girls who are likely to be there for a longer duration i.e. for at least one year, the same be arranged;
- (ii) For their classes through distant learning or for vocational training, necessary arrangements of video conferencing also may be made;
- (iii) The coaching and teaching at the institute, if is feasible, the same be arranged along with such teaching to be imparted through video conferencing;
- (iv) The computer classes, if can be arranged, such training be imparted to the girls as the technical know how will be sine-qua-non for every individual in the present time as well as in the future;
- (v) For the healthy leaving, the periodical review of the food being served to them shall also be made especially bearing in mind those girls who are either pregnant or have

become mother and living with their kids. The nutritive diet with the extra care in consultation with the Health Experts / Medical Experts be provided to them;

- (vi) For their emotional and mental health, periodical counselling shall also be arranged of experienced counsellor;
- (vii) Whenever the girls who are housed there by virtue of the court's order and/or otherwise, if are not having sufficient pairs of cloths, the arrangement shall be done for each one to have minimum four pairs of cloths and their basic necessities also be taken care of. The fund of which, if is difficult to arrange from any other sources, the District Legal Services Authority can always contribute.

5. So far as the corpus is concerned, learned Additional District and Sessions Judge Mr. Mogera may also depute a women or lady staff of the DLSA in consultation with the Chairman DLSA to visit the corpus at the Women protection home every week to oversee the wellbeing of hers, considering her extremely young age.

6. She shall be presented before this Court at the end of four weeks i.e. on 15.10.2020.

7. Any difficulties in implementing the directions, shall be reported to this Court even before the expiry of four weeks' time.



(SONIA GOKANI, J)

(N.V.ANJARIA, J)

MISHRA AMIT V./Bhoomi

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THE HIGH COURT  
OF GUJARAT

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