

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CRIMINAL APPLICATION (HABEAS CORPUS) NO. 14783 of
2023**

=====

MACHHI NAVINBHAI MOTIBHAI
Versus
STATE OF GUJARAT

=====

Appearance:

MR NIMESH M PATEL(6780) for the Applicant(s) No. 1
MR RAHUL RAJHANS(12788) for the Applicant(s) No. 1
MR IMTIYAZ I MANSURI(9159) for the Respondent(s) No. 3,4,6,8
MS KRINA CALLA, APP for the Respondent(s) No. 1
SERVED BY RPAD (N) for the Respondent(s) No. 2,5,7

=====

CORAM:HONOURABLE MR. JUSTICE A.S. SUPEHIA
and
HONOURABLE MR. JUSTICE VIMAL K. VYAS

Date : 04/12/2023

ORAL ORDER

(PER : HONOURABLE MR. JUSTICE A.S. SUPEHIA)

1. It is surprising to note that the present writ petition has been filed by the uncle of the corpus-Shitalben Motibhai Machhi i.e. the respondent No.8 by alleging that she is forcefully and illegally confined by the respondent No.3-Navinbhai Jayantibhai Machhi. Today, the corpus and respondent No.3 are present before us and we have heard them in chamber in presence of learned advocate Mr.Patel appearing for the petitioner.

2. The corpus has specifically stated that her mother and father have no objection if she stays with the boy i.e. respondent No.3 however, the petitioner, who is her uncle, is forcing her to

remain with him. She has also specifically stated that he is threatening her and demanding Rs.10,00,000/-. She has submitted that she is 20 years of age. She has submitted that both of them have performed ceremony of engagement and both intend to marry.

3. The respondent No.3 has submitted that he would be attaining the age of 21 years on 17.12.2023 and he intends to marry the corpus.

4. Learned advocate Mr.Patel has submitted that the writ petition is filed by the uncle since the mother and father of the corpus are already divorced. It is submitted by him that it was decided by the parents of the corpus that after she turns 18 years of age, she would be handed over to her father. It is submitted that the corpus was staying with the uncle and since she ran away, he was constrained to file the writ petition.

5. The corpus, as noticed hereinabove, is already major, and it is further interesting to note that neither the father nor the mother of the corpus are arraigned as the party respondents and it is only the uncle of the corpus i.e. the petitioner, who is interested in procuring custody of the corpus, by making the allegation that she is falsely confined by the respondent

No.3. Since both, the corpus as well as respondent No.3 have specifically stated about the threat issued by the petitioner to them and further stated that the petitioner has threatened them, they are in fear of being assaulted. The respondent No.3 has further submitted that he has been already assaulted and paraded in the village by the relatives of the petitioner.

6. Under the circumstances, the concerned Police Officer of the local Police Station is directed to provide police protection to the both i.e. the corpus and the respondent No.3, as and when they request and their statement shall also be recorded with regard to their safety and well-being. The petitioner or his relative shall not be allowed to meet with the corpus or the respondent No.3. The petitioner shall not make any attempt to meet the corpus or the respondent No.3.

7. Thus, the present writ petition appears to be a sheer abuse of process of law in order to harass the corpus and the respondent No.3. Hence, we are imposing an exemplary costs of Rs.35,000/- on the petitioner. The same shall be deposited before this Court within a period of 10 days, failing which this Court would be constrained to pass order seeking his presence. After the aforesaid amount is deposited, the Registry shall

disburse the said amount to the corpus i.e. respondent No.8, after due verification. Registry shall list the matter in case the cost is not deposited.

8. The present writ petition stands rejected. Notice is discharged.

9. Registry shall communicate the present order to Kadana Police Station, Dist.Mahisagar.

Sd/-
(A. S. SUPEHIA, J)

Sd/-
(VIMAL K. VYAS, J)

NVMEWADA/62