

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
R/SPECIAL CRIMINAL APPLICATION NO. 1486 of 2023

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PRAVINBHAI BECHARBHAI PARMAR (THAKOR)
Versus
STATE OF GUJARAT

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Appearance:

MR HIMANSU M PADHYA(1611) for the Applicant(s) No. 1
for the Respondent(s) No. 2,3,4,5,6,7
MR MANAN MEHTA, APP for the Respondent(s) No. 1

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CORAM: **HONOURABLE MR. JUSTICE N.V.ANJARIA**
and
HONOURABLE MR. JUSTICE NIRAL R. MEHTA

Date : 21/02/2023

ORAL ORDER
(PER : HONOURABLE MR. JUSTICE N.V.ANJARIA)

The petitioner herein filed this Special Criminal Application for writ of Habeas Corpus stating inter-alia that the petitioner had married with the corpus named **Krishnaben D/o.** **[REDACTED]** and the marriage was registered on 08.12.2022 at Labhi Taluka Sehara, Panchmahal. It was the allegation that the relatives of the wife of the petitioner kidnapped the corpus and forcefully confined her trying to solemnize a re-marriage of the corpus with another person.

2. It was upon such case and allegations that the notice was issued by the Court on 02.02.2023 making it returnable today.

3. Today it was given out by learned Additional Public Prosecutor Mr. Manan Mehta that the corpus was brought by

the Police. On the other hand, learned advocate Mr. Himanshu Padhya stated before the Court that he wanted to withdraw the petition in as much as the corpus had returned to his house and that the petitioner had obtained the custody of the corpus pursuant to the proceedings initiated before the Court of Additional Chief Judicial Magistrate, Palanpur at Banaskantha.

4. A copy of the order dated 01.02.2023 passed in Criminal Miscellaneous Application No. 02 of 2023 filed under section 97 of the Code of Criminal Procedure, 1978 by the petitioner's husband was produced before the Court.

5. As noted above, the notice was issued in this petition on 02.02.2023. Well before the date of issuance of notice, that is on 01.02.2023, the order under section 97 of the Code of Criminal Procedure, 1978 was passed by the competent Court. The factum of filing of proceedings of Criminal Miscellaneous Application No. 02 of 2023 under section 97, CrPC was suppressed by the petitioner while filing this Habeas Corpus petition. The Court was not apprised of the proceedings under section 97, CrPC.

5.1 In course of hearing while an attempt was made pre-empting the proceedings by seeking withdrawal of the present application to perpetuate the suppression of the above fact of the parallel proceedings filed and the custody of the corpus obtained, the Police machinery had to activate itself and spend time and energy to produce the corpus from the custody of the petitioner before the Court. It was an aggravated fall-out the suppression.

6. The petition is therefore liable to be dismissed with costs. However, taking a lenient view on the costs, token costs of Rs. 1,500/- shall be paid to the Police Welfare Board, Gandhinagar and the receipt of the same shall be produced within 10 days from the date of receipt of this order.

7. In view of above, the present petition is dismissed as withdrawn.

(N.V.ANJARIA, J)

(NIRAL R. MEHTA, J)

SHRIJIT PILLAI

