

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
R/SPECIAL CRIMINAL APPLICATION NO. 5579 of 2023

=====

MANISHABEN MUKESHKUMAR DARJI
Versus
STATE OF GUJARAT

=====

Appearance:

MR. RADHESH Y VYAS(7060) for the Applicant(s) No. 1
for the Respondent(s) No. 2,3,4
MS CM SHAH, ADDL.PUBLIC PROSECUTOR for the Respondent(s) No. 1

=====

CORAM: HONOURABLE MR. JUSTICE UMESH A. TRIVEDI
and
HONOURABLE MRS. JUSTICE M. K. THAKKER

Date : 20/06/2023

ORAL ORDER
(PER : HONOURABLE MR. JUSTICE UMESH A. TRIVEDI)

1. This petition is filed by the petitioner mother praying for Writ of Habeas Corpus as her major daughter went missing according to the case of the petitioner on 05.04.2023 and therefore a Janvajog information was given to Police Station at Ramol, which came to be registered on 07.04.2023. It is averred in the petition along with the documents produced that at their address certain documents were sent in an envelope claimed to be sent by her daughter which contains

certificate of marriage performed at Araya Samaj Vaidik Sanskar Trust, Delhi, conversion certificate of Shudhdhikaran whereby Mansuri Adilbhai Mustakbhai is said to have renounced Islam and embraced Hindu Religion without any force, pressure, inducement or influence etc. It also contains the letter addressed to SHO, Ramol Police Station, Ahmedabad wherein corpus claimed to have declared that she has already married to Mansuri Adilbhai Mustakbhai out of her free will and choice without any force or coercion. She has also mentioned in the said communication that her date of birth to be 25.07.2002 and stated to be major and if her parents files any false complaint against her or her husband or in-laws, it may be treated to be null and void and no action be taken on the same. It further contains that daughter of the petitioner Mansuri Adilbhai Mustakbhai have also given notice of intended marriage under the Special Marriage Act, 1954.

All these documents have been sent to the parents of the corpus Khushiben.

2. Mr.Radhesh Vyas learned advocate for the petitioner has drawn the attention of Court to document at Annexure E, page No.25 claimed to be received by the petitioner, without disclosing any source of it in an envelope without mentioning the person, who is informing such things to the petitioner even the envelope also bears unreadable postal stamp. The said communication is also not signed by anyone stating that the corpus Khushiben was being compelled to get married to a boy of different faith and therefore, it is informed that her life is in danger. However, the said communication is without any contemporaneous record by existing person or any other material based on which it can be believed. Even name of person who is informing is also not mentioned in it.

3. Mr.Radhesh Vyas learned advocate for the petitioner has further brought to the notice of the Court that daughter of the petitioner and Adilbhai Mustakbhai Mansuri had jointly preferred Special Criminal Application No.4889 of 2023 seeking police protection, which came to be granted by this Court vide order dated 10.05.2023. Copy of the writ of said order is produced by the learned advocate for perusal of the Court. Submissions are recorded in paragraph No.4 of the order wherein it was submitted that the petitioners being adults have entered into inter religious marriage and they received threats from family members of petitioner No.1 therein i.e. Khushi daughter of the present petitioner and ultimately the Court granted police protection to the couple.

4. Therefore, it is clear that daughter of the petitioner is major and she has entered into a marriage with a person of different faith. All

the documents produced by the petitioner herself is clear to establish that she is major and entered into a marriage, of course with a person of her choice and not the choice of the parents. On the overall view of this case and the papers annexed with the petition, it cannot be concluded that she has been abducted against her will and she is being illegally confined.

5. Hence, this petition praying for Writ of Habeas Corpus cannot be entertained and it is hereby rejected.

(UMESH A. TRIVEDI, J)

(M. K. THAKKER, J)

M.M.MIRZA