
(2017) 04 GUJ CK 0141
In the Gujarat High Court
Case No : 2830 of 2017

Kishankumar Atulkumar Barot

APPELLANT

Vs

Kalabhai Vahjibhai Chaudhary & 3.

RESPONDENT

Date of Decision : 21-04-2017

Acts Referred:

Citation : (2017) 04 GUJ CK 0141

Hon'ble Judges : Akil Kureshi, Biren Vaishnav

Bench : Division Bench

Advocate : Shailesh V. Raval, H.K. Patel

Judgement

1. This habeas corpus petition is filed by one Kishan seeking production of Kinjal aged about 22 years before the Court and releasing her from the custody of her parents who according to the petitioner had detained her. According to the petitioner, he got married to Kinjal on 3.4.2017. Such marriage was also registered. Since this marriage was against the wish of Kinjal's relatives, a Janva Jog entry of missing person was reported at Mansa police station. It appears that the police authorities at Mansa found out the boy and the girl at Kamrej, near Surat. A team of the police officers was sent to Kamrej from where the girl was brought to Mansa and later on handed over to her parents. According to the petitioner, though at Kamrej, the petitioner and Kinjal had both pleaded with the police authorities that they were living together voluntarily and had got married, the girl was taken to Mansa against her wish.

2. Looking to the serious allegations made by the petitioner, on 20.4.2017, we had directed the IO to remain present, produce the girl and to file an affidavit meeting with the allegations made in the petition. Accordingly, Shri Hareshbhai Govindbhai Pallacharya, PI, Mansa police station was present with the case papers. He has also filed an affidavit dated 21.4.2017 denying the allegations made in the petition.

3. Prima facie, the explanation of the State authorities is simply not acceptable

that the girl voluntarily left Kishan and joined her parents. This was compounded when we spoke to the girl alone in the chamber. She stated that she had a love affair with Kishan and she had voluntarily left her parents' house and after getting married with Kishan was living at Kamrej. The police authorities had come there. Her brother was also present at Kamrej. She was brought to Mansa police station. She clearly stated that she wants to go with Kishan. She however, earnestly requested us that no harm should come upon her parents and other relatives since according to her they had not used any force or threats.

4. We are not happy about the role played by the State machinery. When Kishan aged about 22 years and Kinjal also aged about 22 years were living together out of their free will as is apparent from their action of getting married and also getting the marriage registered, there was no question of picking up the girl from Surat and taking her to Mansa for recording her statement. Her statement could as well have been recorded at Kamrej. Admittedly, the petitioner nor Kinjal are facing any criminal complaint. The relatives of Kinjal had only filed a missing complaint report. It is always open for the police authorities to search out a person who is found missing. However, if it is then found that the person is living away from his or her relatives voluntarily and that person is adult, the role of the police authorities must end there. The police authorities must be dispassionate and cannot allow emotions of the relatives of the girl to govern their actions. Only the law of land should govern the police authorities' action and neither the sentiments nor the desire of the relatives could supersede them. Kinjal is 22 years old. She is matured and she is able to take her own decisions. The law permits her to do so.

5. The PI to support his action stated that Kinjal was previously married. We are not sure whether she was above 18 years of age at that time. Be that as it may, the freedom of movement of Kinjal cannot be curtailed on account of such factor. In this habeas corpus petition, we are only concerned with the wish of the girl and to ensure that her freedom of movement is not curtailed in any manner by anyone, be it her relatives or the State authorities.

6. While allowing Kinjal to go with the petitioner as per her wish, we request the IO to escort them to petitioner's house at Pilvai under police protection.

7. Habeas corpus petition is disposed of accordingly.