
(2010) 10 GUJ CK 0163
In the Gujarat High Court

Case No : Special Criminal Application No. 2147 of 2010

Rahim Babubhai Mansuri

APPELLANT

Vs

State of Gujarat and Others

RESPONDENT

Date of Decision : 29-10-2010

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2010) 10 GUJ CK 0163

Hon'ble Judges : V.M. Sahai, J;A.M. Kapadia, J

Bench : Division Bench

Advocate : Ferozpathan, for the Appellant; C.M. Shah, APP for Respondent 1, N.D. Nanavati and Mitul Shelat for Respondents 3-4, for the Respondent

Final Decision : Allowed

Judgement

A.M. Kapadia, J.—By means of filing the petition under Article 226 of the Constitution of India, the petitioner has prayed to issue writ of Habeas Corpus against the respondent Nos. 3 and 4 and also to produce the wife of the petitioner namely "Zeenat" who is in illegal detention of the respondent Nos. 3 and 4.

2. This Court vide order dated 27.10.2003 issued Rule which was made returnable on 29.10.2010 and the Police Inspector, Ellisbridge Police Station was directed to ensure that the corpus "Zeenat" before this Court.

3. The respondent Nos. 4 and 5 has entered their appearance through Mr. Mitul Shelat, learned Advocate of this Court and on behalf of respondent No. 2, an affidavit-in-reply is filed, wherein, inter alia, all the averments made in the petition has been denied and further averred that the corpus is of unsound mind. She is not able to understand what is good and what is bad. She is under treatment of Dr. Darshah Shah, M.D., Psychiatrist, who has also issued certificate that the corpus is under mental depression. So, it is prayed that the custody of the corpus may be handed over to the parents.

4. We have considered the submissions advanced by Mr. Ferozh Pathan, learned Advocate appearing for the petitioner and. Mr. N.D. Nanavatty, learned Senior Counsel appeared with Mr. Mitul Shelat, learned Advocate for the respondent Nos. 4 and 5 .

5. We have ascertained the wish and willingness of the corpus as to with whom she wants to stay and also inquired from her whether she is under illegal detention of her parents. She has unequivocally stated before us that she is the lawfully wedded wife of the petitioner and the `nikah" of herself and the petitioner has taken place on 18.9.2010. The said `nikah" has been also registered on 22.10.2010. She has further stated that at present she is in illegal detention of her parents and she wants to go with the petitioner.

6. In view of the aforesaid state of affairs, since the corpus - Zeenat is legally wedded wife of the petitioner and she is under illegal detention of her parents and she is sui juris and is of sound mind, we permit her to go with the petitioner

7. For the foregoing reasons, the petition stands succeeds accordingly it is allowed.

8. Rule is made absolute accordingly.