

**IN THE HIGH COURT OF KARNATAKA
CIRCUIT BENCH AT GULBARGA**

Dated this the 28th day of September, 2012

PRESENT:

**THE HON'BLE MR JUSTICE D V SHYLENDRA KUMAR
AND
THE HON'BLE MR JUSTICE ARAVIND KUMAR**

WRIT PETITION (HC) No.707/2012

BETWEEN:

DURGAVVA
W/O RAMASWAMI WADDAR
AGED ABOUT 50 YEARS, OCC:COOLIE
R/O ALAMATTI, NOW RESIDING AT TELAGI
TQ:BASAVANA BAGEWADI, DIST:BIJAPUR

... PETITIONER

[By SRI:SANGANABASAVA B PATIL, ADV]

AND:

1. SUPERINTENDENT OF POLICE
BIJAPUR, AT BIJAPUR
2. THE POLICE SUB INSPECTOR
NIDAGUNDI, TQ:BASAVANA BAGEWADI
DIST:BIJAPUR
3. PRAKASH
S/O BHIMASHI WADDAR @ BANDIWADDAR
AGE:24 YEARS, OCC:AGRIL & COOLIE
R/O HEBBAL, TQ:BASAVANA BAGEWADI
DIST:BIJAPUR

4. BHIMASHI
S/O YALLAPPA WADDAR @ BANDIWADDAR
AGE:60 YEARS, OCC:AGRIL & COOLIE
R/O HEBBAL, TQ:BASAVANA BAGEWADI
DIST:BIJAPUR
5. SMT.BASAMMA
W/O BHIMSHI WADDAR @ BANDIWADDAR
AGE:55 YEARS, OCC:H H WORK
R/O HEBBAL, TQ:BASAVANA BAGEWADI
DIST:BIJAPUR
6. HANAMANT
S/O BHIMSHI WADDAR @ BANDIWADDAR
AGE:26 YEARS, OCC:TEACHER
R/O HEBBAL, TQ:BASAVANA BAGEWADI
DIST:BIJAPUR

... RESPONDENTS

(BY SMT:ANURADHA M DESAI, ADDL. SPP FOR R1 & 2,
SRI:BAPUGOWDA SIDDAPPA, ADV FOR R3-6)

THIS WRIT PETITION (HABEAS CORPUS) IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE A WRIT IN THE NATURE OF HABEAS CORPUS THEREBY DIRECTING THE RESPONDENTS NO.1 AND 2 TO TRACE OUT THE DAUGHTER OF THE PETITIONER'S HEREIN AND PRODUCE BEFORE THIS HON'BLE HIGH COURT WHO IS MISSING SINCE 5 MONTHS.

THIS WRIT PETITION (HABEAS CORPUS) COMING ON FOR PRELIMINARY HEARING, THIS DAY, **D V SHYLENDRA KUMAR J.**, MADE THE FOLLOWING:

ORDER

Writ Petition is for issue of a writ in the nature of habeas corpus by a mother complaining that her daughter by name Annapurna is suspected to be in the illegal custody of respondent Nos.3 to 6, third respondent being the husband, respondent Nos.4 and 5 being in-laws and sixth respondent being brother of the husband. Superintendent of Police, Bijapur and Police Sub-Inspector, Nidagundi, Bijapur District are arrayed as respondent Nos.1 and 2 respectively.

2 Petition averment is that daughter of writ petitioner who had come to her parental house during Ugadi festival had returned to her matrimonial house though she complained of harassment and hardship there, keeping in view the tradition and custom in the community. But as the parents were concerned for her safety etc., and had visited the house of third respondent a few days after

return of petitioner's daughter to her matrimonial house, they did not find their daughter there and though they have searched for their daughter in other known places also, she was not traceable and it is averred that respondent Nos.3 to 6 must have kept daughter of petitioner in some unknown place. It is in this background, this writ petition.

3 Notice had been issued to respondent-State.

4 Respondent Nos.1 & 2 are represented by learned Addl.SPP and respondent Nos.3 to 6 are represented by counsel Sri Bapugowda Siddappa.

5 Though matter had come up for orders on a few occasions, affidavit of respondent No.1 was placed before Court. On 13.09.2012 this Court had directed respondents to put in further efforts for locating missing person as appellant only indicated that they could not

locate her daughter and she was also not found to be in the custody of respondent Nos.3 to 6.

6 Further affidavit is placed before the Court today sworn by Deputy Superintendent of Police, Basavana Bagewadi Sub Division, Bijapur and it is indicated in the said affidavit that daughter of petitioner is married to third respondent who is deaf and dumb; and being unhappy with her marriage, she has left her matrimonial home etc. and follow up action by police only indicated that they received some information that the missing daughter of petitioner was in the company of one Sri Hanumantha Gonyal who was earlier working as labourer in Almatti dam and that the petitioner was also working in Almatti dam at the time when petitioner along with her daughter was staying near Almatti Railway Station and acquaintance had been developed between petitioner's daughter and the said Hanumanta Gonyal even before her

marriage to third respondent etc.,. Affidavit also states that police have made further efforts for locating a call originating from cell phone of Hanumanth Gonyal which has indicated that it was around Maski in Raichur District though he had claimed that he was speaking from Muddal village, Raichur.

7 On the other hand, learned counsel appearing for petitioner submits that missing person is still suspected to be in the custody of respondent Nos-3 to 6. While the submission on behalf of petitioner is based on the assertion of petitioner and more on suspicion, affidavit is sworn to by responsible officer of the State and we have no reason to disbelieve it .

8 As of now, it is not ascertained that missing daughter of petitioner is in illegal custody of any of respondent Nos.3 to 6 or any other known person. In this view of the matter, issuing a writ in the nature of habeas

corpus will not serve any purpose and therefore, we close this petition.

9 We direct the Police to pursue investigation and as and when they trace the missing girl, Police shall inform the petitioner about her location.

Writ petition stands disposed of in these lines.

Learned SPP is permitted to get the correction made in the affidavit regarding incorrect mentioning of third respondent as second respondent.

**Sd/-
JUDGE**

**Sd/-
JUDGE**

*sp