

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CRIMINAL APPLICATION (HABEAS CORPUS) NO. 11832 of
2023

PADMABEN RAJENDRABHAI VYAS

Versus

STATE OF GUJARAT

Appearance:

JITENDRA J PANDYA(8191) for the Applicant(s) No. 1,2
MR.KISHORE PRAJAPATI(6305) for the Applicant(s) No. 1,2
DS AFF.NOT FILED (N) for the Respondent(s) No. 2,6,7
MR JB DASTOOR(239) for the Respondent(s) No. 3,4,5
MR H K PATEL, APP for the Respondent(s) No. 1

CORAM:**HONOURABLE MR. JUSTICE A.S. SUPEHIA**
and
HONOURABLE MS. JUSTICE GITA GOPI

Date : 09/10/2023

ORAL ORDER

(PER : HONOURABLE MR. JUSTICE A.S. SUPEHIA)

1. The present writ petition has been filed for the following prayer:

"9.(A) Your Lordships may be pleased to issue a writ of Habeas Corpus or any other appropriate writ, order or direction directing the respondents No. 5 to 7 produce corpus Respondent No.3 and 4 before this Hon'ble Court and further the Hon'ble Court may be pleased to set herself free from illegal confinement of respondent No. 5 to 7 and give the appropriate order to Respondent No. 1 and 2, to produce Respondent No.3 and 4 to the Superintendent of the Hospital of Mental Health Karelibaug, Vadodara for medical checkup and medical treatment and also to produce Medical report of the Respondent No. 3 and 4 before this Honorable Court as early as possible.

(B) Direct the Respondent No. 1 and 2 not to disclose any information to newspapers and media received during the investigation of this petition.

(C) During the pendency and final disposal of this petition Your Lordships may be pleased to direct the respondent authorities to submit action taken report and to produce corpus Respondent No. 3 and 4 before this Hon'ble Court."

2. It is also noticed by us that there are various orders passed by the Coordinate Bench of this Court seeking presence of the corpuses-respondent Nos.3 and 4. Today, both of them are present before this Court.

3. Along with the writ petition, a pen-drive is produced, which it appears that has been viewed by the Coordinate Bench and thereafter, the orders are passed. In the last order dated 27.09.2023 following directions are issued:

"4. Reference is made to the medical case papers particularly referring to the papers dated 20.09.2023 which in the opinion of the Medical Officer of S. S. G. Hospital and particularly Ward No. 14, Psychiatry as advised for admission of both the corpuses for evaluation and observation for about 7 to 10 days.

5. There is resistance on the part of corpuses as well as learned advocate representing them for being admitted for observation but have readily agreed to be examined medically on daily basis by an expert to undertake the evaluation of their health.

6. In the meantime, the content of the pendrive at Annexure-A was perused by one of us and it reveals something which is very shocking and disturbing which in the opinion of the Court cannot be disregarded and therefore, the examination of medical condition of both the corpuses would be essential.

7. Both the corpuses are major and therefore, this Court orders that the arrangement which is established by the respondent No.2 pursuant to the order passed by this Court on 21.09.2023 is to

continue and as agreed upon by the corpuses as well as their advocate we direct that the senior most Medical Officer in the Department of Psychiatry, SSG Hospital, Vadodara shall visit the residence of the corpuses atleast twice in a day and for more number of times if required for which the Police will provide all the necessary assistance. The arrangement of order dated 21.09.2023 with the additional directions to continue till the next date of hearing. On the next date of hearing the Medical Officer shall submit his independent report."

4. Pursuant to the aforesaid directions, the corpuses namely, Pranali Shriram Bhatt and Drashti Shriram Bhatt are present before this Court. They have specifically stated that pursuant to the aforesaid order dated 27.09.2023, they were taken to Manjalpur Police Station, Vadodara and from there, they were taken to S.S.G. Hospital, Vadodara and made to sit till 12 o'clock in the night and thereafter, their examination was refused.

5. Today, the corpus-Drashti Bhatt has stated before us that she has completed her B.A. graduation in English with distinction from the M.S.University. She has further stated that in all three years of graduation, she has secured distinction. The corpus-Pranali Bhatt has stated that in fact, the entire dispute is with regard to claim on the property, in which they are residing i.e. 303, Rangotsav Apartment, Near Darbar Chokdi, Manjalpur, Vadodara and the petitioners are attempting to see that the said property gets vacated as the Society has been acquired for redevelopment by a Builder and they are

objecting to it. The corpus i.e. respondent No.4 Drashti Bhatt has stated that in fact, the said property (apartment) was bought on her own means by her mother. She has further alleged that the petitioner No.2-Shriram Bhatt, who is her father and the husband of the respondent No.3, has in fact left them in 2018 and they are maintaining themselves.

6. It is alleged by the petitioners that the respondent Nos.5, 6 and 7 have been practicing black magic on them i.e. on respondent Nos.3 and 4 and have been under the influence of such black magic and are illegally confined. The cause title of the writ petition of respondent Nos.5, 6 and 7 reveals that they are Reki teacher of Art of Living Master and Vastu Consultant. The entire genesis of the present writ petition is that the respondent Nos.5 and 6 have illegally confined the respondent Nos.3 and 4 by practicing black magic on them.

7. It appears that the Coordinate Bench was impressed upon the videos presented in the CD, which was a forming part of the pen-drive at Annexure-A and accordingly, they were referred to the Medical Officer, Department of Psychiatry, S.S.G. Hospital, Vadodara in order to test their mental condition. Today, both the corpuses have specifically denied that they should not be subjected to medical tests assessing their mental fitness, and both of them are mentally stable and can take conscious decisions.

They are also taken to the police station and thereafter to the SSG hospital in the night, and were made to wait, and ultimately no test was undertaken.

8. Learned APP Mr.Patel, upon instructions, has submitted that in fact, a period of one week is required to ascertain the medical condition of the respondent Nos.3 and 4 and assessment of the mental condition cannot be made in one day.

9. In our considered opinion, the respondent Nos.3 and 4 cannot be forcefully subjected to medical test in order to ascertain their mental stability (ability) that too in habeas corpus petition on vague allegations that they are practicing black magic.

10. We have ascertained the wishes of respondent Nos.3 and 4. We have also personally interacted to them. We do not find that both the respondent Nos.3 and 4 suffer from any type of mental disorder or disability. On the contrary, the respondent no.3, who is the daughter of the petitioner no.2 has cleared her graduation with distinction. The practicing of black magic can be a personal choice, and this Court cannot delve into such issues in a habeas corpus petition.

11. Be that as it may. On being ascertained that the respondent Nos.3 and 4 would not like to accompany the petitioners and they would like to reside at the

place, where they are presently residing at the given address, we cannot compel them to reside with or accompany the petitioners against their wishes. Neither we can direct them to be subjected to medical tests ascertaining their mental health.

12. In light of the above, the present writ petition stands dismissed. Notice is discharged.

Sd/-
(A. S. SUPEHIA, J)

Sd/-
(GITA GOPI, J)

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