

**THE HON'BLE JUSTICE MOUSHUMI BHATTACHARYA
AND
THE HON'BLE SRI JUSTICE MADHUSUDHAN RAO BOBBILI RAMAIAH**

WRIT PETITION NO.3487 OF 2025

Mr. K.R. Vijay, learned counsel appearing for the petitioner.
Mr. Swaroop Oorilla, the learned Special Government Pleader representing the learned Advocate General for the respondents.

ORDER:

The petitioner seeks a writ in the nature of Habeas Corpus directed against the respondent No.6, the Station House Officer, Secunderabad to produce one Mrs.Panajal Sharnya, who is the wife of the petitioner.

2. Learned counsel appearing for the petitioner submits that the detinue is presently with a third person and that the respondents have not shown any interest to find the detinue. The petitioner states that there is a threat to the detinue's life and urgent orders are called for.

3. The learned Special Government Pleader appearing for the State of Telangana/respondent Nos.1 to 6 places written instructions containing the statement of the detinue, Smt. Nalla Nagarani. The learned Special Government Pleader submits that the petitioner's wife's actual name is Nalla Nagarani and this is the name mentioned in her Aadhar Card.

4. We have perused the statement given to the lady Police Constable on 21.11.2024. The detinue has stated that the petitioner used to physically abuse the detinue on one pretext or the other including suspecting her character. The statement of the detinue records that on

20.11.2024 she received a call from Lallaguda Police Station and informed the Police that she left home of her own volition as she was facing life threat from her husband. The detenu states that the petitioner/her husband used to physically abuse her including with acid on suspecting the detenu to be in a relationship with another person. The detenu recorded her statement in the Padmanabam Police Station, Vishakapatnam City, Andhra Pradesh.

5. The Writ of Habeas Corpus originated in Anglo-Saxon Jurisprudence and is an extraordinary remedy where a person is entitled to institute proceedings for the purpose of liberating another from illegal imprisonment on the applicant showing cause that the applicant is legally entitled to the custody of the detenu. The Writ entails a command to the person detaining another to produce the body of the prisoner at a designated time and place, that is to “have the body”. By all counts, it is the most powerful safeguard against arbitrary acts of the executive or even of private individuals transgressing personal liberty: *Nenavath Bujji Vs. State of Telangana*¹.

6. A Writ of Habeas Corpus can only be issued when a detention or imprisonment is without authority of law i.e., when the person is under illegal detention. With the expansion of the scope of Habeas Corpus, the Writ is often used against a spouse who has been illegally detained

¹ Criminal Appeal.Nos.1738-39 of 2024

by his/her parents or in cases of custody of a child. In such cases, the Court must come to the conclusion that the person is under detention without authority of law: *Home Secretary Vs. H.Nilofer Nisha*². For instance in a child custody matter the ordinary remedy is under The Hindu Minority and Guardianship Act, 1956 or The Guardians and Wards Act, 1890 as the case may be: *Tejaswini Gaud Vs. Shekar Jagdish Prasad Tewari*³.

7. It is important to sound a word of caution with regard to the cases where missing men and women are sought to be produced before the Court through this mechanism. The more appropriate course of action in such cases would be to register a “Missing Person” case in the jurisdictional police station or appropriate proceedings for tracing the missing person in the manner provided under The Code of Criminal Procedure, 1973. These cases should be dealt by the competent Court of law without invoking extraordinary jurisdiction of Constitutional Courts: *Selvaraj Vs.State*⁴.

8. Considering the width of the power of a Writ Court to issue a Writ of Habeas Corpus on such a sovereign and transcendent authority, the Courts must be circumspect where the petitioner seeks to invoke this extraordinary remedy in matters where either the act of disappearance is voluntary or where the detention satisfies due process. The reach of the

² (2020) 14 SCC 161

³ (2019) 7 SCC 42

⁴ (2018) 3 Mad LJ (Cri) 712

power conferred on the Court cannot be run down by seeking directions at random where the law has already charted a course to secure justice.

9. Considering the instructions and the statement, we do not find any reason to keep the writ petition is pending.

10. W.P.No.3487 of 2025, along with all connected applications, is accordingly dismissed.

Interim orders, if any, shall stand vacated and all connected applications are dismissed. There shall be no order as to costs.

MOUSHUMI BHATTACHARYA, J

MADHUSUDHAN RAO BOBBILI RAMAIAH, J

Date: 10.02.2025
NDS