

2010 (0) AIJEL-HC 223672

GUJARAT HIGH COURT

Hon'ble Judges: Jayant Patel and Z.K. Saiyed JJ.

Sayyed Asif S/o Mansoor Ali Versus State Of Gujarat

SPECIAL CRIMINAL APPLICATION No. 597 of 2010 ; *J.Date :- APRIL 07, 2010

- CONSTITUTION OF INDIA Article - 226

Constitution of India - Art. 226 - petitioner claimed to be husband of the corpus i.e. his wife - petitioner alleged that her parents have kept her in wrongful confinement and she is compelled to marry with other - writ of habeas corpus - free will and desire of corpus - wife declared before Court that she is not desirous to stay with the petitioner and she is desirous to stay with her parents and that Nikahnama ceremony is not performed between petitioner and herself - held, corpus be set free and she be at liberty to stay with her parents - petition disposed of.

Imp.Para: [2] [6]

Equivalent Citation(s):

2010 (2) GCD 1360 : 2011 (1) CCR 292

JUDGMENT :-

JAYANT PATEL, J.

1 The present petition is preferred by the petitioner, claiming as husband of the corpus, Rubiya Ishmailbhai Qureshi to set her free on the allegation that the parents have kept her in wrongful confinement and she is compelled to marry with other boy.

2 Pursuant to the earlier order passed by this Court, the corpus Rubiya is present with the Police Officer, Mr.M.D. Chauhan, P.S.I., Kadi Police Station. We have enquired about the free-will and desire of the corpus Rubiya and she has declared before us that she is not desirous to stay with the petitioner and she is desirous to stay with the parents. She also stated that no Nikahnama ceremony is not performed between the petitioner and herself.

3 The petitioner, Sayyed Asif Mansoor Ali, is present with his Advocate, Mr.Ansari. The aforesaid facts are brought to his notice in his Advocate's presence and he also confirms

that there is no Nikahnama ceremony performed between the petitioner and the corpus Rubiya.

4 In view of the above, both the petitioner as well as the corpus have agreed to separate each other.

5 The parents of the corpus are also present with their lawyer Mr.Feroz H. Pathan and they have declared that if the corpus is desirous to stay with the parents, they shall keep and treat her properly.

6 In view of the above, the corpus Rubiya is set free and she would be at liberty to stay with her parents. The parties shall act as per the declarations made before the Court. Mr.M.D. Chauhan, P.S.I., is directed to ensure that the corpus with her parents are left at their residence in safe condition.

7 Rule made absolute accordingly.