



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 25TH DAY OF MAY, 2022

PRESENT

THE HON'BLE MR. JUSTICE B. VEERAPPA

AND

THE HON'BLE MRS. JUSTICE K.S. HEMALEKHA

WRIT PETITION (HC) NO.42/2022

BETWEEN:

SRI T.L. NAGARAJU,

...PETITIONER

(BY SRI SATISH M. DODDAMANI, SENIOR COUNSEL A/W
SRI SAGAR B.B., ADVOCATE)

AND:

1. THE INSPECTOR OF POLICE,
K.M. DODDI POLICE STATION,
(BHARATHINAGRA),
MADDUR TALUK,
MANDYA DISTRICT – 571 422.
2. SRI NIKHIL @ ABHI,

...RESPONDENTS

(BY SRI ROHITH B.J., HCGP)

THIS WPHC IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO RESPONDENTS TO PRODUCE MISS. NISARGA, BEFORE THIS HON'BLE COURT AND TO FURTHER DIRECT THE RESPONDENTS TO HAND OVER THE CUSTODY OF MISS. NISARGA TO THE PETITIONER.

THIS WPHC COMING ON FOR ORDERS, THIS DAY, **B.VEERAPPA J.**, MADE THE FOLLOWING:-

ORDER

This writ petition habeas corpus is filed by one T.L.Nagaraju, who is the father of the detainee Ms. T.N.Nisarga praying to direct the respondents to produce Ms. Nisarga before this Court and to handover the custody to him.

2. It is the case of the petitioner that his daughter the detinue Ms.T.N.Nisarga aged about 19 years was pursuing her engineering at G.Madae Gowda Institute of Technology (GMIT) at Mandya and was residing in the hostel college as it was more convenient for her than to travel from her residence at Thalagavadi Village, Malavalli Taluk every day. It is further contended that it was in the interest of her health to be in the hostel as she was suffering from severe depression and the doctor, who treated her had advised the petitioner that if she spends more time with her friends, it would help in her treatment. As such, the petitioner and his wife (parents of the detinue) had decided to get their daughter admitted to hostel for her studies. It is further contended that while Nisarga was studying in the said institute, it appears that respondent No.2, who was a van driver at G.Madae Gowda Institute of Technology was assigned the duty of dropping girl students from their hostel to the college and back from the college to the hostel and by taking advantage of the said situation, respondent No.2 herein has befriended with

Ms. T.N.Nisarga and taking advantage of her innocence, he instigated and convinced her to leave her parents and to go with him. Accordingly, on 13/05/2022, the petitioner's daughter left for college from the hostel and thereafter, she did not return back to the hostel and as such, the hostel authorities informed the said fact to the petitioner. After receiving information from the hostel Superintendent, the petitioner enquired the whereabouts of his daughter with her friends. Initially, none of her friends revealed anything, but only on 15/05/2022, some of her friends informed the petitioner that respondent No.2 herein might have taken her away. Immediately, the petitioner tried to reach respondent No.2 on his mobile phone which he had got from the friends of his daughter, but he did not respond and when the petitioner went looking for the respondent No.2/driver of the van in the address stated above, he threatened the petitioner and being aggrieved by such illegal acts, the petitioner lodged a police complaint with respondent No.1 police on 15/05/2022 and the police registered the complaint in Crime No.145/2022

for the offence punishable under Section 363 of the Indian Penal Code, 1860. Thereafter, on 17/05/2022, respondent No.1 had summoned the daughter of petitioner and respondent No.2 herein and they came to the police station. This fact was informed to the petitioner. Immediately, the petitioner and his wife rushed to the police station. In spite of begging and pleading, respondent No.1/police, the police did not permit the petitioner and his wife to speak to their daughter and sent her away with respondent No.2 herein. Hence, this writ petition is filed for the relief sought for.

3. When the matter is listed today for orders, this Court was about to direct the learned Government Pleader to take notice for the State/respondent No.1, by then, the petitioner/T.L.Nagaraju, who is present before the Court during the proceedings gave information about his daughter to the learned senior counsel, Sri Satish M.Doddamani, who on instructions submitted that the petitioner's daughter is within the Court premises.

Thereafter, this Court sent the police constable attached to this Court along with petitioner to request T.N.Nisarga and respondent No.2/Nikhil @ Abhi to come before the Court. Accordingly, both Nisarga and Nikhil @ Abhi appeared together before the Court.

4. When we enquired T.N.Nisarga, she voluntarily stated that her date of birth is 28/04/2003 and she is major and that she went voluntarily along with respondent No.2/Nikhil @ Abhi, who is aged 24 years, out of love towards him, got married on 13/05/2022 at Bandimakalamma Temple, Anekal Taluk and they are residing at Chikka Arashinakere in the house of respondent No.2/Nikhil @ Abhi's brother-in-law.

5. In view of the assertion made by the petitioner that his daughter T.N.Nisarga is not in a fit state of mind to decide things by herself and further since there is strong apprehension that she might have been forced into marriage with respondent No.2 against her will, when this Court enquired with Nisarga, who is present before the

Court along with her husband, she denied the contents of the doctor certificate dated 02/08/2021 issued by Dr.G.Siddesh at Annexure-A, and submitted that she never went to the doctor and she is in "sound state of mind and physically fit" and she never suffered from any ill-health as alleged in the writ petition.

6. The said statement is placed on record.

7. This Court noticed the pain of the parents (petitioner and his wife), who brought up Nisarga and educated her upto II year Engineering with all struggles in their life, but the fact remains that the alleged detainee T.N.Nisarga is aged about 19 years and that she is major and she can decide her life with what she expressed in the open Court and she even declined to interact with the parents or to join the parents. She assured before the Court that she is confident to live happily with respondent No.2/her husband till her life. On query made with respondent No.2, Nikhil @ Abhi who is husband of T.N.Nisarga, he also assured the Court that he will take all

the precautions and care to protect his wife without single drop of tear in her eyes and will lead a happy married life till their life time. He also assured the Court that his wife Nisarga will continue her further studies and complete the engineering degree.

8. It is also relevant to state that the parents also should understand that their children are supreme asset of the nation. A proper education encompassing skill development, recreation and cultural activity has a positive impact on the child. "Our history reveals that there are parents who sacrificed their lives to the children and the children who sacrificed their life to the parents." It is only a mutual love and affection between the two i.e., parents and children. If there is love and affection between two, there cannot be any rift in the family and there would be no question of either children going against the parents or parents going against the children to the Court to protect their rights. The parents should create a good atmosphere in the family by their love and affection to regain the

confidence of the children. The children should also understand the fact that without their parents, they would not have been on the earth and would not have enjoyed the educational prospects including job, wealth and other luxuries and it is only the parents' contribution. When Nisarga completed her teenage i.e., from the age of 13 to 19 and she attained majority, she is at liberty to decide her future and choose her partner and at the same time, she should not be the reason for pain and agony suffered by her parents. Instead of eloping with respondent No.2, in all fairness she should have thought of her studies and informed the parents about her love with respondent No.2 and ought to have tried to convince her parents with regard to her marriage with respondent No.2. The peculiar facts and circumstances of the present case clearly depicts that "love is blind and more powerful weapon than the love and affection of the parents, family members and the society at large."

9. The fact remains that, now she is married and is residing along with respondent No.2. "It is high time for the children to know that the life consists of reaction, resound and reflection. What they are doing to their parents today, would get back exactly tomorrow. What is the use of their education, power-position and wealth, when it does not help them to change their destiny. When the bad thoughts enter their mind; their education, intelligence, power and wealth become futile and meaningless."

10. "There is no greater God than parents. There is no greater Dharma than compassion, there is no enemy greater than anger, there is no wealth greater than good reputation, bad reputation is death itself. Even according to Manusmruthi, no person can repay his parents even in 100 years for all the troubles that they go through to give birth to him/her and raise him/her to adulthood. Therefore, always try to do whatever pleases your parents

and your teacher, because only then does any religious worship done by you will bear some fruit.

11. It is well settled that "ageing has become a major social challenge" and there is a need to give more attention to the care and protection for the elder persons. "Old age is incurable, increase of disease, you do not heal old age, you protect it, you promote it, you extend it." The fact remains now that Nisarga attained majority and she has right to choose her partner and to lead her life. The Court cannot intervene with her rights. "The right to marry a person is one's choice is integral part of Article 21 of the Constitution. The Constitution guarantees the right to life. This right cannot be taken away except through a law which is substantively and procedurally fair, just and reasonable. Intrinsic to the liberty which the Constitution guarantees as a fundamental right is the ability of each individual to take decisions on matters central to the pursuit of happiness. Matters of belief and faith, including whether to believe are at the core of constitutional liberty."

The Constitution exists for believers as well as for agnostics. The Constitution protects the ability of each individual to pursue a way of life or faith to which she or he seeks to adhere. "Matters of dress and of food, of ideas and ideologies, of love and partnership are within the central aspects of identity." The law may regulate (subject to constitutional compliance) the conditions of a valid marriage, as it may regulate the situations in which a marital tie can be ended or annulled. These remedies are available to parties to a marriage for it is they who decide best on whether they should accept each other into a marital tie or continue in that relationship. Society has no role to play in determining their choice of partners including the parents. It is well settled that the autonomy of the individual is the ability to make decisions on vital matters of concern to life. The intersection between one's mental integrity and privacy entitles the individual to freedom of thought, the freedom to believe in what is right, and the freedom of self determination. The family, marriage, procreation and sexual orientation are all

integral to the dignity of the individual as in the present case.

Quoting the proverb "don't base your relationship off of the advice of people who don't have to live with the results", we propose to dispose of the writ petition with a fond hope that T.N.Nisarga and her husband Nikhil @ Abhi-respondent No.2 will lead a happy married life. The parents T.L.Nagaraju or his wife or his family members should not interfere with their personal life. Now T.N.Nisarga has gone away along with respondent No.2 and that she has become the wife of respondent No.2 with all confidence that he would take care of her in a proper manner till her life. 'The woman born as a girl child to somebody and become the wife of somebody and therefore, it is the bounden duty of the husband to protect the wife and ensure her full happiness till her lifetime.' 'The decision of the suitability of partners to a marital tie rests exclusively with the individuals themselves. Neither the State or Society can intrude into that domain. The Courts, as upholders of

constitutional freedom must safeguard their freedom. Courts are duty bound not to swerve the path of upholding our pluralism and diversity as a Nation.'

12. The love should be from "heart to heart and not mere external attraction." It is nature's decision and not anybody's and the parents should accept the nature's decision and should not go against the nature. It is stated that they got married in the temple. In the interest of both the parties, it is directed that they should get their marriage registered before the concerned Sub-Registrar's office within one month from the date of receipt of this order.

13. As already stated supra, the daughter of the petitioner viz., T.N. Nisarga submitted that she was not detained by anybody and she is major and she went voluntarily with Respondent NO.2 and out of love married him on 13.5.2022 and happily living with him. The 2nd respondent, who is present before the Court assured the Court that he will take all the precautions and care to

protect his wife and look after her properly. The said submissions are placed on record.

14. Having regard to the facts and circumstances of the case, this Court deems fit proper to allow daughter of the petitioner viz., T.N. Nisarga to live with the 2nd respondent. Since this Court is convinced that the daughter of the petitioner viz., T.N. Nisarga is not in illegal detention of anybody, the present writ petition (HC) is liable to be dismissed.

15. In view of the above, we pass the following:

ORDER

The writ petition (HC) is ***dismissed*** with the above observations.

**Sd/-
JUDGE**

**Sd/-
JUDGE**

S*