

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 23<sup>RD</sup> DAY OF JULY 2018

PRESENT

THE HON'BLE MR.JUSTICE RAGHVENDRA S. CHAUHAN

AND

THE HON'BLE MR. JUSTICE H. T. NARENDRA PRASAD

WRIT PETITION (HC) No.72/2018

**BETWEEN :**

SRI REHAMAN PASHA  
S/O. CHAND PASHA,  
AGED ABOUT 24 YEARS,  
RESIDING AT SAKRE BYLU VILLAGE,  
GAJANUR POST, THIRTHAHALLI ROAD,  
SHIVAMOGGA TALUK & DISTRICT-577 202. ... PETITIONER

(BY SRI KASHINATH J. D., ADV.)

**AND:**

1. STATE OF KARNATAKA  
DEPARTMENT OF HOME,  
VIDHANASOUDHA,  
BANGALORE-560 001.
2. THE SUPERINTENDENT OF POLICE  
SHIVAMOGGA DISTRICT,  
SAGAR ROAD, SHIVAMOGGA TOWN,  
SHIVAMOGGA.
3. THE POLICE INSPECTOR  
TUNGA NAGARA POLICE STATION,  
SHIVAMOGGA TOWN.

4. THE INSPECTOR OF POLICE  
UDAYAGIRI POLICE STATION,  
MYSORE CITY.

... RESPONDENT'S

(BY SRI E. S. INDIRESH, AGA)

THIS HABEAS CORPUS PETITION IS FILED UNDER ARTICLES 226 & 227 OF THE CONSTITUTION OF INDIA PRAYING TO DIRECT THE RESPONDENT POLICE TO TRACE AND TO PRODUCE THE DETAINEE PETITIONER'S WIFE SMT. SUMA R @ SUMAYA D/O. RAJU W/O. REHAMAN PASHA.

THIS PETITION COMING ON FOR ORDERS THIS DAY, **RAGHVENDRA S. CHAUHAN J**, MADE THE FOLLOWING :

ORDER

Mr. Rehaman Pasha, the petitioner, has filed this Habeas Corpus petition *inter alia* on the ground that he and Ms. Suma. R @ Sumaya, D/o Raju, had known each other for the last two years. Since they were in love with each other, on 28.06.2018, they went to Mysore, where Ms. Suma. R @ Sumaya, converted to Islam, and they were married in accordance with Islamic rites and customs (Nikah), at the Safa Baitul Maal, Mysore Branch, Shanthi Nagara, Mysore.

2. According to the petitioner, he is a resident of Sakre Bylu Village of Shivamogga Taluk. He is working on contract basis as "Elephant Kawadi" at the Sakre Bylu Elephant Forest Camp, for the last six years. While the

petitioner is aged 24 years, his wife Ms. Suma. R @ Sumaya, is aged 19 years. Furthermore, according to him, his wife was studying in PUC Course at the Government Girls PU College, Shivamogga. Furthermore according to him, after the marriage on 28.06.2018, the couple stayed together till 11.07.2018. But, around 12.30 a.m., at mid-night, the police personnel came to their friend's house at Shanthinagar, and informed his wife that she has to accompany them to the police station. Consequently, on 12.07.2018, at 6.00 a.m, both the petitioner and Ms. Suma. R @ Sumaya, went to the police station. There, they found that the parents of his wife were present. Despite the fact that Ms. Suma. R @ Sumaya, told her parents that she had married the petitioner, the police separated the two. Moreover, despite the fact that she told the police that she would like to go with the petitioner, the petitioner was kept in the police station till 14.07.2018. However, on 12.07.2018, the police lodged Ms. Suma. R @ Sumaya, with the Surabhi Ujwala State Home, situated at Shivamogga. Hence, according to the petitioner, Ms. Suma. R

@ Sumaya, is being illegally detained. Thus, this Habeas Corpus petition before this Court.

3. Today, the Police Inspector of Tunga Nagara Police Station of Shivammogga Town, has produced the detenu, Ms. Suma. R @ Sumaya, before this Court.

4. She was produced in the morning session. But in order to give her time to coolly think about the future course of action, this Court directed that the case would be taken up, in the chamber, rather than in the Court at 4.00 p.m. Consequently, she appeared before this Bench in the chamber at 4.00 p.m.

5. She informed the Court that both the petitioner, and she are the residents of the same village, namely Thimkapura village, Gajanur Post, Shivamogga Taluk and District. She has known the petitioner for the last two years. They had fallen in love and gotten married in Mysore. According to her, she has converted to Islam, and had married the petitioner out of her own free will. She further informs this Court that She further informs the Court that

the police had lodged her at the Stay Home for four days. It is her aunt who had taken her to Kerala, where she had met her parents. Once the parents were informed that the police were looking after her, they produced her before the Tunga Nagara Police Station.

6. She is crystal clear in her mind that she would not like to return to her parents house. Instead, she wants to go back with the petitioner to lead her marital life.

7. Since she is a major, this Court directs the police to hand over the custody of Ms. Suma. R @ Sumaya to the petitioner.

8. Since it is a case of intra-faith marriage, since according to the police, the said marriage may cause some disturbance for the family members of the petitioner, and the petitioner and to Ms. Suma. R @ Sumaya, this Court directs the Superintendent of Police, Shivamogga District, and the Police Inspector, Tunga Nagara Police Station, Shivamogga Town, that in case they receive any information that the lives of the petitioner, and Ms. Suma. R @ Sumaya is in danger,

or the life and property of the petitioners is being threatened, the Superintendent of Police and the Police Inspector, Tunga Nagara Police Station, Shivamogga Town, are directed to ensure that safety of lives of the couple, as well that of the petitioner's family. Even their property, if any, shall be protected by them. In case, these directions given by this Court are not implemented, the petitioner, or any member of his family, is free to file a contempt petition before this Court. Since it is the duty of the police to protect the young couple, and the petitioner's family, from any threat or disturbance, in case, the respondent Nos. 2 and 3 fail to implement this order, a serious view shall be taken for any omission committed by the police.

9. The Registrar (Judicial) is directed to immediately send a copy of this order to the respondent Nos. 2 and 3 for their information.

**Sd/-  
JUDGE**

**Sd/-  
JUDGE**

Np/-