

IN THE HIGH COURT OF KARNATAKA
KALABURAGI BENCH

DATED THIS THE 17TH DAY OF DECEMBER 2020

PRESENT

THE HON'BLE MR.JUSTICE S.SUNIL DUTT YADAV

AND

THE HON'BLE MR.JUSTICE P.KRISHNA BHAT

WRIT PETITION HABEAS CORPUS NC.200012/2020

Between:

Tarabai W/o Heerasing Rathod
Age: 55 Years, Occ: Coolie
R/o Minajgi Tanda
Tq. & Dist. Kalaburagi-585 103.

... Petitioner

(By Sri Ananth S. Jahagirdar, Advocate)

And:

1. The State of Karnataka
By Principal Secretary
Govt. of Karnataka
Vidhan Soudha
Bangalore-560 001
2. The Superintendent of Police
Kalaburagi-585 102

3. The Station Bazar Police Station
Kalaburagi
By its SHO, Station Bazar
Kalaburagi-585 102.
4. The Superintendent of Police
Yadgir-585 201.
5. The Gogi Police Station
By its SHO, Gogi,
Tq. Shahapur, Dist. Yadgir-585 223.

... Respondents

(By Smt. Archana P. Tiwari, AGA)

This Writ Petition Habeas Corpus is filed under Article 226 of the Constitution of India, praying to issue a writ or order or direction in the nature of Habeas Corpus thereby directing the respondents to produce the son of the petitioner namely Suresh S/o Heerasing Rathod R/o Minajgi Tanda Tq. & Dist. Kalaburagi who is unlawfully taken away by the respondent No.5 on 20.10.2020 before this Court.

This petition coming on for Orders this day, **P. Krishna Bhat J.**, made the following:

ORDER

The petitioner Tarabai is present along with her son Suresh.

2. This Habeas Corpus writ petition was filed on account of her son Suresh going missing on 20.10.2020. Subsequently, he was produced before the

court on 03.11.2020. The entire development in the case after Suresh going missing discloses to us a very disturbing facet of the functioning of the police stations in this area of the State. The problem, primarily, is one of police officers not complying with the procedure prescribed under the Code of Criminal Procedure, which places a high premium on the guarantee of liberty of the individuals.

3. In our proceedings dated 03.11.2020, we had noted that respondent no.3 in these proceedings has admitted that the petitioner Tarabai had approached him in the police station with a grievance that her son had been abducted and thereafter he was not found. The respondent no.3, at that point of time, was quite conscious that what was conveyed to him by the petitioner Tarabai constituted a cognizable offence and, therefore, he was obliged to make an entry in the Station House Diary in regard to the same and further

he was required to register FIR. If the facts disclosed to him amounted to an offence taking place within the limits of his police station, then he should have proceeded with the investigation of the case and if the offence disclosed took place outside his jurisdiction, then he was obliged to transfer the FIR to the jurisdictional police station for further investigation of the case. In spite of the same, he has overlooked the mandate of law in as much as he has not made an entry in the Station House Diary regarding the substance of the information received nor has he registered FIR which has resulted in stultifying the precious right of the petitioner and her son Suresh.

4. When we called upon the respondent no.3 who is present before the court to account for the said infraction of the law affecting the liberty of Suresh, the learned AGA representing him submits that a lenient view may be taken for the said violation of the

procedure notwithstanding the serious implications for the liberty of Suresh and she further submits that respondent no.3 is prepared to file an undertaking to do some community service to atone for the same. We permit him to do so. The respondent no.3 has now filed an undertaking which reads as under:

"I the undersigned do hereby state that, as per the direction of the Hon'ble Court, I am ready to comply with the direction issued by the Hon'ble Court by cleaning the road in front of my Police Station for one week.

That I render my unconditional apology for not registering the First Information Report and assure the Hon'ble Court that I will not repeat the same in future."

5. We accept the same and direct the respondent no.3 to comply with the undertaking by cleaning the road in front of his police station for a period of one week.

6. However, this aspect of the matter requires serious consideration by the superior officers of the department.

7. Therefore, we direct the Superintendent of Police, Kalaburagi District to hold a Workshop/Orientation course to all the police officers working within the Kalaburagi District on the subject of "Zero FIR" vide 1) **KIRTI VASHIST v. STATE AND OTHERS** [2019 SCC OnLine Del 11713 Para 16 to 20] and 2) **RHEA CHAKRABORTY V. STATE OF BIHAR AND OTHERS** [2020 SCC OnLine SC 654 Para 23, 28] and the provisions under the Code of Criminal Procedure, 1973 pertaining to registration of FIR and investigation of cases.

8. Since Mr. Suresh has been produced before the court, nothing survives for consideration in this writ petition and, accordingly, we close the same.

9. The writ petition is disposed of with the above directions.

**SD/-
JUDGE**

Np/-

**SD/-
JUDGE**