



Order Below Exhibit No.1 in Cri. O.M.A. No. 28/2024.

1] Perused the application and affidavit placed on record. Heard the learned counsel for applicant and gone through the written notes of the argument filed by the respondent at Exh. 16. It is submitted by the learned advocate for the applicant that Non Applicant no.1 Prasad is husband of the applicant. Their marriage is still in existence. Their relations between them are now hostile. She further contended that their son namely *Ashish* age about 2 years was forcefully took away by the Non Applicant no.1. It is her further contention that she continuously requested him to handover the minor son but, he refused to handover the custody.

2] Notices were issued to respondent no. 1 to 3. They have appeared and filed say at Exh.14. It is contended that applicant herself has left home leaving the minor child Ashish at respondent's home and filed false cases against the respondents. The respondent no. 1 to 3 are taking due care of the minor child Ashish. Hence, prayed to reject the application.

3] Application is supported by affidavit. At this juncture, I did not found any reason to disbelieve her contentions. Moreover, the minor son below 2 years have to be alongwith her mother. The act of Non Applicant to took away the minor child without informing the applicant and his refusal to hand over them is definitely act of illegal confinement.

4] The Hon'ble Bombay High court in the Judgment *Purushottam Wamanrao Thakur Vs. Warsha Narendra Thakur* cited in 1992 Cri.L.J. 1688 has held that father removing children from mother's residence and failure of husband to return them to mother's house. Husband lodging children in his father's house amounts to wrongful confinement. The facts are squarely applicable to the matter in hand. Hence, in view of the nature ratio laid down above and considering the nature of allegations , I found prima facie substance in the application. In the result following order.

ORDER

The Police Station Pathardi is directed to issue Search Warrant Under section 97 of the Code of Criminal Procedure at Bhanashivre, Tal. Newasa, Dist. Ahmednagar and to produce the minor child Ashish s/o Prasad Sasane, age 2 years alongwith respondent Prasad s/o Ashok Sasane on or before **22.03.2024**.

Place : Pathardi
Date : 14.03.2024.

[V. I. Shaikh]
Judicial Magistrate First Class,
(Court No. 2), Pathardi.