

ORDER SHEET  
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

C.P. No.S-961 of 2022

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DATE	ORDER WITH SIGNATURE OF JUDGE(S)
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21.12.2022

Mr. Umaid Ali Khowaja advocate for petitioner along with petitioner.

Mr. Abdul Hafeez Daudani advocate for respondents No. 6.

Mr. Shahzado Saleem Nahiyoon, APG along with SIP Aftab Ahmed Memon on behalf of SHO PS B-Section Latifabad.

Mr. Ayaz Ali Rajpar, Assistant A.G. Sindh.

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**MUHAMMAD IQBAL KALHORO, J.-** This habeas corpus petition has been filed by Dr. Asif Kamal Ahmed, real nephew of alleged detainee Mst. Surya Akhtar wd/o Muhammad Usman, aged about 75 years, who allegedly is confined / detained by respondents No.5 & 6 Faisal and Faizan, who are step sons of the alleged detainee, in their house No.D/317, Block-D, Unit No.6, Latifabad, Hyderabad.

2. Yesterday when this petition was taken up, it was informed by the SHO that alleged detainee was in a critical condition and it was not possible to bring her to the court for further proceedings and asking her about her illegal detention or otherwise. In view of such facts and circumstances, Mr. Muhammad Iqbal Memon, Assistant Registrar of this Court, was appointed as commission u/s 503 CrPC to visit subject house in presence of both the parties and in presence of SHO PS B-Section Latifabad to ascertain condition of alleged detainee and to ask about her wish as to whether she wanted to live with private respondents or she intended to go with petitioner to live in Islamabad where he resides. The commission was also directed to ascertain whether she was in a position and able to know the parties or not. In response, the commission has submitted its report which is reproduced as under:

*“In compliance with the order dated 20.12.2022 passed by this Hon’ble Court in the subject Constitutional Petition whereby the undersigned was directed to visit subject*

House No. D/317, Block-D, Unit No.6, Latifabad Hyderabad in presence of both the parties and in presence of SHO PS B-Section Latifabad Hyderabad to ascertain condition of alleged detainee Mst. Surya Akhtar and her wish as to whether she wants to live with private respondents or she intends to go with applicant to live in Islamabad and it was further directed to ascertain whether she is in a position to know the parties or not, the undersigned paid a visit at the subject House with the following officials and parties, available at the premises:-

1. Muhammad Ali Dhamra, SHO B-Section, Latifabad, Hyderabad.
2. Dr. Mureed Ali, Medical Officer posted at High Court Dispensary
3. Dr. Asif Kamal Ahmed. (Petitioner)
4. Mst. Rabia Rauf w/o Dr. Asif Kamal Ahmed.
5. Abdul Rehman s/o Dr. Asif Kamal Ahmed.
6. Faizan. (Respondent No.06)
7. Mst. Sobia w/o Faizan.
8. Mst. Zareen alias Guddu (house-maid).

It is stated that with regard to query made by the Hon'ble Court that, mental and physical condition of Mst. Surya Akhtar was poor as she was unable to move, stand and talk. Further, she recognized both the parties including petitioner's wife and son and was feeling very happy to see petitioner and his family and kissed their hands in joy. Since she was in altered-level consciousness and could not speak clearly, therefore, it was difficult to ascertain as to whether with whom she wants to live with.

It has been observed that she is living in the room having two gates, one of wooden and the other one was iron. Further, the atmosphere of her room was bad and there was no proper cleanliness. Her clothes were also old-ones and dirty. Further, the medicines available for her were properly seal-packed and there was no any sign of usage of medicines.

That, the report of Medical Officer, High Court Dispensary, who accompanied the undersigned during the visit, is attached herewith, which may kindly be perused at Flag 'A'.

*The visit report is submitted, as ordered."*

3. The report of commission is self-explanatory and speaks that respondents have kept the alleged detainee in detention against her will and wish; that when detainee saw petitioner and his family she got very happy and started kissing their hands in joy. Further, she was found living in a room having two separate gates i.e. wooden and iron, the atmosphere of her room was pathetic and pungent. There was no proper cleanliness, even her clothes had

not been changed and were old ones and dirty. There was no medicine available in the room which was being administered to her. The medicines shown to the commission were sealed pack. There was no recent prescription of medicines, means that she was not being taken to Doctor for checkup.

4. In view of such facts and circumstances, after hearing the parties and the commission, this habeas corpus petition is allowed. The petitioner is permitted to take the alleged detainee with him to Islamabad for providing her a proper treatment and taking care of her other needs: lodging, clothing, food etc. subject to his executing a PR Bond in the sum of Rs.10,00,000/- (rupees ten lacs). In addition, petitioner is directed to send photographs and all the detail of treatment provided to her and other necessities as above for providing comfort to Mst. Surya Akhtar wd/o of Muhammad Usman, who is his real aunt / sister of his father, every month to the Additional Registrar of this Court. It is further informed that alleged detainee is receiving Rs.150,000/- per month as pension of her husband. Petitioner shall also provide details with proof as to how he is spending such amount of pension on his aunty Ms. Surya Akhtar every month. SHO present is directed to execute aforesaid order in presence of parties and hand over person of Mst. Surya Akhtar to the petitioner and his family.

5. Let a copy of this order be communicated to the office of learned Additional Advocate General Sindh and learned Additional Prosecutor General Sindh for a perusal and compliance.

JUDGE