

**IN THE COURT OF DISTRICT & SESSION COURT AT
KARACHI (SOUTH)**

Cr. M. A.____/2019

Mst. ABC

D/O Mohammad Shoban,

Muslim, adult,

bearing CNIC No.42301-0000000-0

Resident of House No. 8888, street,

Mohalla 00, Sector 0/0 Hijrat Colony,

Ahmed Raza Khan Road,

Karachi.....

Petitioner

Versus

1. Senior Superintendent Police (SSP),

District South,

Karachi.

2. Station House Officer (SHO),

P.S Civil lines,

District South,

Karachi.

3. XXXX,

S/O Dur Mohammad,

Resident of Eidgah

Muhalla, opposite

Al-Latif Biryani wala

Gizri, Karachi.....

Respondents

1. Baby XXXX (age 11 months only)

D/OXXX.....

Detenue

**PETITION UNDER SECTION 491 CR. P.C FOR HEABEAS CORPUS TO
RECOVER THE DETENUE NAMELY BABY XXXX FROM THE
ILLEGAL CUSTODY.**

It is respectfully prayed on behalf of the Petitioner above named that this Honorable Court may be pleased to direct the Respondents No. 1 and 2 to recover and produce the Detenue before this Hon'ble Court on consideration of following facts and grounds:

FACTS & GROUNDS

The Petitioner above named respectfully submits as under:

1. That the Petitioner is law abiding citizen of Islamic Republic of Pakistan, an obedient house wife and an strong character lady who has fulfilled all matrimonial obligations after coming in Nikkah with Respondent No. 3, residing at the above mentioned address.
2. That the Applicant was married withXXX S/O Dur Muhammad on dated 07-04-2017 according to the Sunni Muslim Law and rukhsati took place on same date, out of this wedlock one issue baby Noor Afroz (Detenue) was born.

(The photocopy of Nikkahnama attached is attached herewith as annexure "A").

3. That after the marriage, the Respondent No. 3 and other family members shown their true color and started ill treating in insulting and physical beaten the Petitioner without any reasons on petty domestic matters of family made it regular habit
4. That after solemnize of nikkah/marriage besides above tragedy the attitude and behavior of the Respondent No. 3 towards the Petitioner was oppressive, ignorant and cruel. The Respondent No. 3 was in habit to use filthy defamatory, abusive and taunting language against

the Petitioner and the Respondent and other family members also used to extend physical and mental torture.

5. That the Respondent No.3 after marriage used to live in a joint family system where the behavior of the Respondent No. 3 and his family was abusive, torturing and insulting. The Petitioner not only physically beaten by the Respondent No. 3 but the brothers and mother of the Respondent No. 3 also use to beat Petitioner on the petty domestic issues.
6. That after ten days of marriage the Respondent No. 3 maltreated the plaintiff and he adopted the same behavior in subsequent days. The Respondent no. 3 dated 17-07-2019 gave an inhuman beating, grab hold the 11 months baby/Detenue and finally threw her from his house only three wearing clothes.
7. That the Respondent No. 3 and other family members have snatched the baby of Plaintiff who is suckling baby of 11 months and cannot survive without the mother feed.
8. That the minor Child baby XXXX has been deprived of the love, affection and company of her mother. The child is a suckling baby merely 11 years old, on mother feed therefore she requires constant and complete care of her mother.
9. That since the petitioner has left the house of the Respondent No. 3, the petitioner number of times got the news of illness of the minor due to negligence of the respondent No. 3.
10. That the Petitioner being a mother is lurking to embrace her minor but the Respondent No. 3 and his family members are extended threats of dire consequences to the Plaintiff. The Respondent No. 3 and other family members even refused to allow the Petitioner to see the minor. The Respondent No. 3 and other family members also used very filthy, abusive, ridiculous and a language of defamation in nature with the Petitioner and her family members.

11. That there are serious apprehensions that the Respondent No.3 and his goons may cause harm to the life of the petitioner and his family since they maintained the gathering of notorious criminals who have been continuously threatening the Petitioner and his family.
12. That the Respondent No. 3 is not ready to come on table talks to settle the issue and handover the custody of a suckling baby to mother despite many efforts by the Petitioner and her family.
13. That the Petitioner tried to settle the dispute but the Respondent No. 3 and other family members despite of any settlement, changed their residence and made no contact with Petitioner. The Respondents no. 3 along with other family members is trying to harass the Petitioner and put the detinue in habeas corpus in their house amounting to abduction and as such the detinue are liable to be discovered from their illegal detention.
14. That the Respondent No. 3 is keeping Petitioner on threats and not returning the Detinue to Petitioner. The Petitioner had tried her level best to resolve the issue but all in vein no any fruitful result comes out.
15. That the Petitioner who is the real mother of Detinue is liable to file this Misc. Application before this Hon'ble Court.
16. That the Respondent No.3 and other family members has malafidely and due to ulterior motives kept the custody of detinue despite knowing the fact that the Detinue is a suckling baby and cannot survive without mother feed.
17. That as per credible information received by the Petitioner that the health of the Detinue is at the stake, if the Detinue may not be recovered from the illegal detention of the Respondent No. 3 and other family members.

18. That the detinue have become miserable being away from Petitioner, as the respondent No. 3 and other family members are not allowing Petitioner to visit/meet or even see Detinue.

19. That the detinue is being treated cruelly by the respondent No.3 and other family members, who are having illegal custody of detinue, the Respondent No. 3 has demonstrating the negligence towards the food and other necessities of life of detinue.

20. That due to cruel and inhuman attitude of the Respondent No. 3 towards the detinue, there is a serious apprehension that the health and future brought up of detinue shall be destroyed, if they kept Detinue away from the Petitioner and in the illegal and unlawful custody of the respondent No. 3 and other family members.

21. That further grounds shall be submitted at the time of hearing of this application.

PRAYER

It is respectfully prayed, on behalf of the Petitioner above named, that Hon'ble Court may graciously be pleased to direct the Respondent No.1 and 2:

- (i) To recover the Detinue from wrongful private confinement of the Respondent No. 3 and other family members and to produce the detinue before this Hon'ble court and also take legal action against the Respondent No.3 who has illegally put the Detinue in wrongful private confinement amounting to abduction.
- (ii) To direct the Respondent No. 3 to handover the custody of child as she is a suckling baby and cannot survive without the mother feed and it is not possible for the Respondent No. 3 and other family members to bring up the Minor in the occurred situation.

- (iii) To permanently restrain the Respondents No.3 their men, agents, associates, employees, nominees, relatives, friends and attorneys from illegally and unlawfully harassing/ pressurizing and threatening the petitioner with dire consequences.
- (iv) To direct the Respondent No. 1 and 2 to provide the necessary protection to the Petitioner and her family and to take necessary steps/ actions against any illegal conduct of the Respondent No. 3

Prayer is made in the larger interest of justice.

Karachi;

Dated: 23-07-2019

Advocate for the Petitioner

(XXXX)

VERIFICATION

I, **Mst. ABC D/O Mohammad Shoban**, Muslim, adult, bearing CNIC No.42301-0000000-0, R/O 000, street, Mohalla 000, Sector D/2 Hijrat Colony, Ahmed Raza Khan Road, Karachi, Plaintiff in above matter do hereby verify on oath that whatever has stated in forgoing contents are true and correct to the best of my knowledge and belief.

DEPONENT

Identified by me: