

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 10.06.2015

CORAM

THE HONOURABLE DR.JUSTICE S.TAMILVANAN
AND
THE HONOURABLE MR.JUSTICE C.T.SELVAM

H.C.P. No.1278 of 2015

S.Uma Vishalakshi

... Petitioner

-vs-

1.The District Superintendent of Police,
Kancheepuram District,
Kancheepuram.

2.The Inspector of Police,
D2 Police Station,
Chengleput,
Kancheepuram District.

3.S.Maheswaran

... Respondents

Habeas Corpus Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Habeas Corpus directing the respondents 1 and 2 to produce the body of the detinue Parameswari, wife of Subramani, aged 65 years, now illegal custody of third respondent herein, before this Court and to set her at liberty forthwith.

For Petitioner : Mr.R.Sankarasubbu

For Respondents : Mr.A.N.Thambidurai
Additional Public Prosecutor
for R1 and R2
Mr.A.Rajamohammed for R3

O R D E R

(Order of the Court was made by S.TAMILVANAN,J.)

This petition has been filed under Article 226 of the Constitution of India, by the petitioner/daughter of the detinue, seeking an order to secure the presence of the detinue Parameswari, wife of Subramani, aged about 65 years. On the allegation that she is in the custody of the third respondent.

2.It is an admitted fact that the third respondent is none other than the son of the alleged detainee and the report that has been produced by the learned Additional Public Prosecutor would show that the detainee is taking treatment properly. Since the third respondent is admittedly, working as Scientific Officer (Safety) Nuclear Power Corporation of India Ltd., Gujarat, it is not in dispute that being an officer of Government of India, he could provide treatment for his mother, even as a dependent.

3.Mr.Sankara Subbu, learned counsel for the petitioner submitted that the alleged detainee mother may die within one or two months and the expectation of the petitioner is her mother may be allowed to die only in her house. Learned counsel for the petitioner further submitted that the alleged detainee was taken by her son on 02.04.2015, for which, she have a complaint. It is seen that the complaint was not directly given to the police, but it was sent by registered post and we do not know why the complaint was not directly given to the police but sent through registered post, for which, postal receipts are available. Sending a complaint by registered post would create doubt about the bona fide of the complaint. It cannot be disputed that both the son and daughter have equal duty to safeguard the mother. Here, when the mother is with her son, third respondent herein, the petitioner, a married daughter, cannot claim as a matter of right on the ground that she is in illegal detention by her son. The petitioner should have approached the Civil Court for disputed question of fact. This petition could be filed only if it is based on admitted facts and not based on disputed facts, which is not provided with evidences.

4.On the aforesaid circumstances and the arguments advanced by both the learned counsel, we find just and reasonable to dismiss the petition as not maintainable under law.

5.Having considered the submission made by the learned counsel for the petitioner, we permit the petitioner to visit her mother and we direct the third respondent not to create any hindrance for the petitioner in seeing her mother either in hospital or at the house of the third respondent.

6.With the above observation, the petition is dismissed.

Sd/-
Assistant Registrar(CS IV)

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Sub Assistant Registrar

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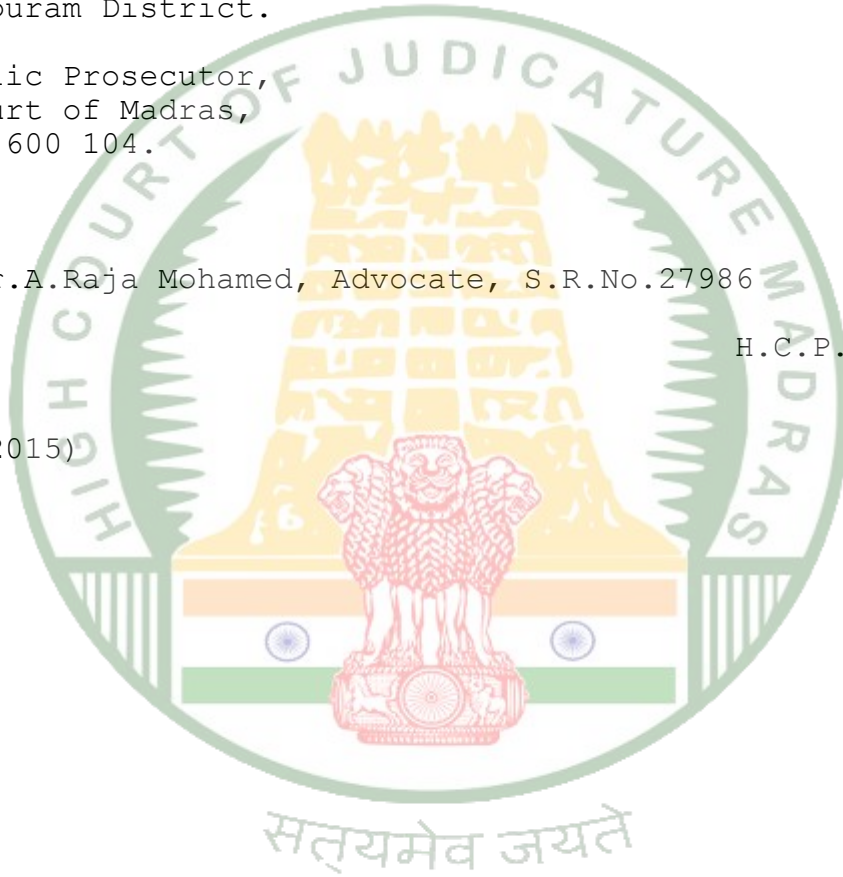
To

- 1.The District Superintendent of Police,
Kancheepuram District,
Kancheepuram.
- 2.The Inspector of Police,
D2 Police Station,
Chengleput,
Kancheepuram District.
- 3.The Public Prosecutor,
High Court of Madras,
Chennai 600 104.

+1cc to Mr.A.Raja Mohamed, Advocate, S.R.No.27986

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JSV(CO)
CA(19/06/2015)



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