

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 02.09.2015

CORAM

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

H.C.P. No.2139 of 2015

A.Kumarasamy

... Petitioner

-v-

1.The Superintendent of Police,  
Kancheepuram District.

2.The Deputy Superintendent of Police,  
Madhurandhagam,  
Kancheepuram District.

3.The Inspector of Police,  
Cheyyur Police Station,  
Cheyyur, Kancheepuram District.

4.Kullappan

... 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 second respondent to produce the petitioner's wife namely Puthiyammal, D/o.Kullappan, residing at Idaikazhinadu Panchayat, Nallur Village, Katappakkam Post, Cheyyur Taluk, Kancheepuram from the illegal custody of the fourth respondent, before this Court and to hand over her custody to the petitioner herein.

For Petitioner : Mr.A.Prakash for  
Mr.M.Manikandhan

For Respondents: Mr.A.N.Thambi Durai  
APP for R1 to R3

O R D E R

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

This petition has been filed by the petitioner to produce the petitioner's wife namely Puthiyammal, D/o.Kullappan, residing at Idaikazhinadu Panchayat, Nallur Village, Katappakkam Post, Cheyyur Taluk, Kancheepuram from the illegal custody of the fourth

respondent, before this Court and to hand over her custody to the petitioner herein.

2.The alleged detainee Puthiyammal/daughter of the fourth respondent is secured and produced before this Court. Maalavika/elder sister of the detainee is also before us. The said Maalavika submitted that originally the petitioner married her and that she is having two children, who were also present before us.

3.Learned counsel for the petitioner would submit that there was customary divorce between the petitioner and the said Maalavika, who is present before us and he has produced an illegible copy of the petition filed in HMOP. No.27/2013 on the file of Madurantakam.

4.Considering the facts and circumstances of the case, we are of the view that there is no evidence to show that the said HMOP. is pending or any other order is passed by the said Court. When the petitioner himself to approach the Subordinate Court, having jurisdiction to grant divorce, he cannot raise a plea that customary divorce is valid. The plea of the petitioner and the arguments advanced by the learned counsel for the petitioner that there was customary divorce between the petitioner and the said Maalavika, cannot be accepted by any reasonable prudent man. It is an admitted fact that the petitioner having two children born through the said Maalavika. He has filed this petition stating that the younger sister of Maalavika namely Puthiyammal/the detainee herein is his wife and he married her and also seeking order in the nature of Habeas Corpus Petition against the fourth respondent, who is none other the father of the said detainee. It is a clear abuse of process of law and Court. There is no justification on the part of the petitioner in filing this petition.

5.For the aforesaid reasons, we are of the view that this petition is liable to be dismissed by imposing Rs.25,000/- costs. Accordingly, this petition is dismissed with costs Rs.25,000/-, which shall be paid towards the Secretary, State Legal Services Authority. Out of Rs.25,000/-, Rs.15,000/- shall be paid in favour of Maalavika and the minor children born through the petitioner and the said Maalavika.

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-s/d-  
Assistant Registrar(CSII)  
dt:25/09/2015  
True Copy

Sub-Assistant Registrar

To

1.The Superintendent of Police,  
Kancheepuram District.

2.The Deputy Superintendent of Police,  
Madhurandhagam,  
Kancheepuram District.

3.The Inspector of Police,  
Cheyyur Police Station,  
Cheyyur, Kancheepuram District.

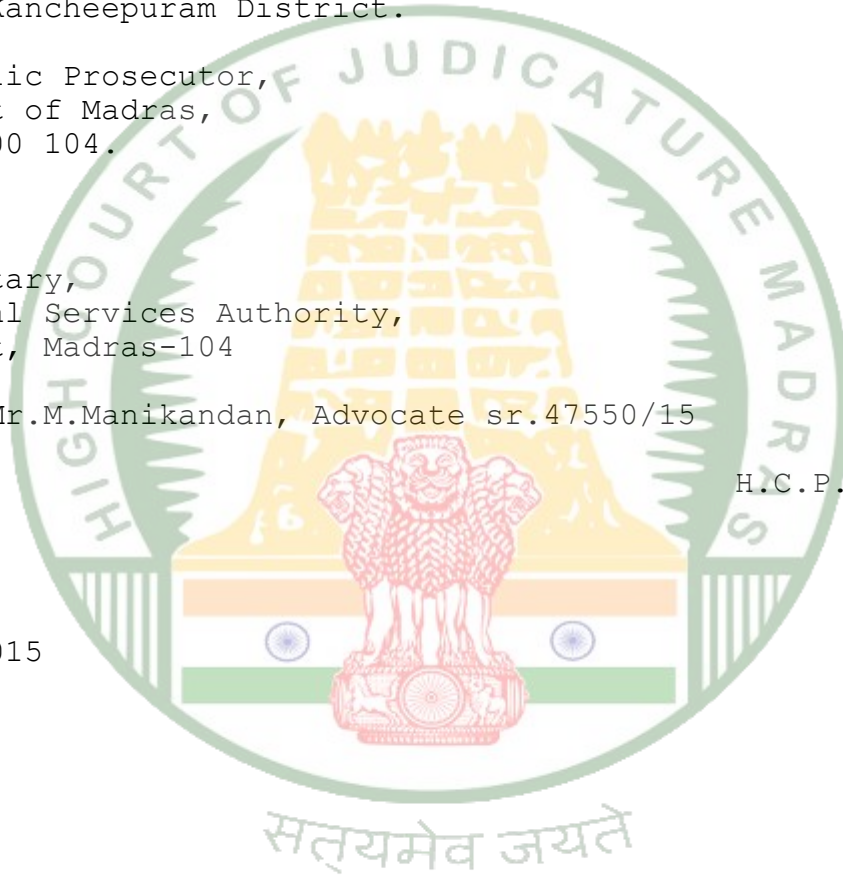
4.The Public Prosecutor,  
High Court of Madras,  
Chennai 600 104.

copy to:  
The Secretary,  
State Legal Services Authority,  
High Court, Madras-104

+1 cc to Mr.M.Manikandan, Advocate sr.47550/15

H.C.P. No.2139 of 2015

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