

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 24.11.2015

CORAM

THE HONOURABLE MR.JUSTICE R. SUDHAKAR

AND

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

HCP.No.2471/2015

N.P.Senthil Kumar ... Petitioner

Versus

1. The District Superintendent of Police
Namakkal District, Namakkal.
2. The Inspector of Police
Rasipuram Police Station
Rasipuram, Namakkal District.
3. M.Chinnasamy ... Respondents

Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Habeas Corpus directing the respondents 1 and 2 to produce S.C.Vimala now aged 27 years, wife of N.P.Senthilkumar, before this Court and to set her at liberty.

For Petitioner : Mr.R.C.Paul Kanagaraj

For R1 & R2 : Mr.A.N.Thambidurai,
Additional Public Prosecutor

For R3 : Mr.N.Manokaran

ORDER

[Order of the Court was made by P.N.PRAKASH, J.,]

The above petition has been filed by the petitioner, claiming to be the husband of the detinue, to cause production of his wife, Vimala, aged about 27 years, who is said to be in the illegal custody of her father/the 3rd respondent herein, before this Court and to set her at liberty.

2. This is a textbook case for demonstrating how the Constitutional remedy of Habeas Corpus can be misused by the litigant. The facts of the case makes a queer reading. M.P.Senthil Kumar, the petitioner herein who is aged about 45 years and already married and got children, has averred in his affidavit that Chinnasamy [3rd respondent herein] was working under him and that he has been paying for the education and other needs of his daughter Vimala, aged about 27 years and that Chinnasamay had promised to give his daughter in marriage to the petitioner. It is further alleged in the affidavit that the marriage of the petitioner with Vimala was solemnised on 09.09.2015, in support which a copy of an invitation card has been enclosed in the typed set of papers. The contention of the petitioner is that after having given his daughter in marriage to him, the 3rd respondent has taken her back and is trying to get his daughter married to someone else. Hence, he has prayed for the issuance of a writ of Habeas Corpus.

3. On notice, the 3rd respondent entered appearance through a counsel and the detinue Vimala was also produced before this Court.

4. It is brought to the notice of this Court that the marriage invitation that was enclosed along with the typed set of papers has been created for the purpose of this case and that there was no such proposal for giving Vimala in marriage to the petitioner herein. On a closer scrutiny of the facts, it appears that the petitioner's marriage with his first wife itself is subsisting and he has 2 children through the said wedlock. Despite that, he has been luring the 3rd respondent's daughter. This Court took a very serious exception to the conduct of the petitioner and when the Court was about to take serious action against him for having misled the Court that the girl/detinue was in the illegal custody of her father/the 3rd respondent herein, which is totally false. Mr.R.C.Paul Kanagaraj, learned counsel appearing for the petitioner pleaded mercy and stated that his client/the petitioner herein, would atone for the aforesaid action of malfeasance. The petitioner filed an affidavit before this Court which reads as follows:-

"[1]I state that the earlier affidavit filed by me may be treated as part and parcel of this affidavit.

[2]I state that I tender my apology for filing the alleged false document un-intentionally before this Hon'ble Court.

[3]I state that I hereby undertake I will not disturb the 3rd respondent and his daughter in any manner in future. I state that hereinafter I will not interfere with the life of the daughter of the 3rd respondent in any manner."

5. The petitioner, realising his fault, also averred to expiate for his mistake and partake a measure of charity. Accordingly, he donated a sum of Rs.25,000/- [Rupees twenty five thousand only] to Bala Vihar, Home and Day Care Centre for Mentally Challenged Children, Kilpauk, Chennai 600 010. The same is recorded.

6. Taking note of the subsequent conduct of the petitioner atoning of his misconduct in filing this petition and the affidavit filed in support of this Habeas Corpus Petition and has also his unconditional undertaking not to interfere with the life of the detainee or her parents/the 3rd respondent herein, we are inclined to close this petition with a stern warning to the petitioner.

7. In the event of this petitioner violating the undertaking given before this Court, liberty is given to the 3rd respondent to approach this Court.

AP

Sd/-
Assistant Registrar (CCC)

/True Copy/

Sub-Assistant Registrar

To

1. The District Superintendent of Police
Namakkal District, Namakkal.
2. The Inspector of Police
Rasipuram Police Station
Rasipuram, Namakkal District.
3. The Public Prosecutor,
High Court, Chennai.

+1 C.C. To MR.N.Manokaran, Advocate in SR.NO.63792

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H.C.P.No.2471/2015

PA(CO)

sd : 09/12/2015