

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 19.11.2015

CORAM

THE HONOURABLE MR.JUSTICE R.SUDHAKAR

AND

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

H.C.P.NO.2555 OF 2015

Karthikeyan

... Petitioner/Father
of the Detenu

- Vs -

1. The Superintendent of Police
Vellore, Vellore District.

2. The Inspector of Police
Virthambat Police Station
Vellore District.

3. Kannapan

4. K.Vijaya

5. Prathima

6. Ambi

.. Respondent

Petition filed for the issuance of a writ of habeas corpus directing the second respondent to secure the detenu, K.Shiva, S/o R.Karthikeyan, aged about 2 years, produce him before this Court and set him at liberty.

For Petitioner : Mr. M.Sathish Kumar

For Respondents: Mr. A.N.Thambidurai,
Additional Public Prosecutor
for RR-1 & 2

Ms. R.Kamala Rani for R-6

Notice sent - Service Awaited for RR-3 to 5

ORDER

(DELIVERED BY P.N.PRAKASH, J.)

This petition has been filed by the petitioner for a direction on the respondent police to secure the detenu, K.Shiva, S/o R.Karthikeyan, aged about 2 years, produce him before this Court and set him at liberty.

2. It is seen that the petitioner got married to the fifth respondent on 3.9.12 and through the said wedlock, they begot a male child, K.Shiva, who is the detenu in the present case. It appears that the spouses got estranged and the fifth respondent has taken the child with her and living in Bangalore. The petitioner has filed FCOP No.350/2014 under Section 9 of the Hindu Marriage Act before the District Court, Vellore, and the same is pending. On the complaint given by the bride's family, a case in Crime No.1114/2013 under Section 498 (A), 294 (b) and 506 (i) IPC and Section 4 of the Dowry Prohibition Act, has been registered against the petitioner. Whiles, the petitioner has lodged a complaint alleging that the child is in the illegal custody of the mother, viz., the fifth respondent. Since the respondent police have failed to conduct proper investigation, the present petition is filed by the petitioner.

3. Heard the learned counsel appearing for the petitioner, the learned Addl. Public Prosecutor appearing for respondents 1 and 2 and Ms.Kamala Rani, learned counsel appearing for the sixth respondent.

4. From the averments in the petition, it is evident that there exists matrimonial discord between the spouses due to which FCOP No.350/2014 has been filed by the petitioner before the District Court, Vellore. It is further seen that the bride's family has also lodged a complaint against the petitioner, which is registered in Crime No.1114 of 2013. In the above circumstances, the child being with the mother, who is the natural guardian, could in no way be termed as illegal detention. In such view of the matter, this Court finds that there is no case for issuance of a writ of habeas corpus.

5. Accordingly, this petition is closed with liberty to the petitioner to work out his remedy in a manner known to law.
GLN

Sd/-

Assistant Registrar (CCC)

सत्यमेव जयते

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Sub-Assistant Registrar

To

1. The Superintendent of Police
Vellore, Vellore District.
2. The Inspector of Police
Virthambat Police Station
Vellore District.

3. The Public Prosecutor
High Court, Madras.

+1 C.C. To MS.R.Kamala Rani, Advocate in SR.NO.62834.

H.C.P. NO. 2555 OF 2015

VS (CO)
sd : 09/12/2015



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