

In the High Court of Judicature at Madras

Dated: 05.11.2015

Coram

The Honourable Mr.JUSTICE R.SUDHAKAR
and

The Honourable Mr.JUSTICE P.N.PRAKASH

Habeas Corpus Petition No.2608 of 2015 and
Crl.O.P.No.26545 of 2015

H.C.P.No.2608 of 2015:

N.M.Narasimha Rao Petitioner/Husband of the
detenue

Vs.

1. The Inspector of Police,
E4 Police Station,
Abhiramapuram Police Station,
Sriram Colony, Abhiramapuram,
Chennai - 600 018.

2. Dr.R.Rangarajan

3. Dr.R.Shankuntala Rangarajan

4. Dr.Naram Srinivas Respondents

Crl.O.P.No.26545 of 2015:

1.N.M.Narasimha Rao

2. N.C.Madhava Rao

3. J.Manohar

..... Petitioners (Accused)

Vs.

State represented by

Inspector of Police,

W-29, All Women Police Station,

Avadi, Chennai - 600 054.

..... Respondent (Complainant)

Prayer in H.C.P.No.2608 of 2015:

PETITION under Section 226 of The Constitution of India
praying for the issuance of Writ of Habeas Corpus directing the
first respondent herein to produce the body of the detenue by
name Smt.R.Veena before this Honourable Court, set her at
liberty and entrust her lawful custody to the petitioner who is
the husband of the detenue.

Prayer in Crl.O.P.No.26545 of 2015:

PETITION under Section 438 of the Code of Criminal Procedure

to enlarge the petitioners on bail in the event of their arrest pending investigation in Crime No. Not known of 2015 on the file of the respondent police.

For Petitioners
in HCP & CrI.O.P.

: Mrs. Nalini Chidambaram, S.C.
for M/s. N.R.R. Arun Natarajan.

For Respondents

: A.N. Thambidurai,
Addl. Public Prosecutor -
R1 in HCP & CrI.O.P.

Mr. R. Krishnamoorthy, S.C.
for Mr. S. Thanka Sivan
and Ms. T. Uma Sivan - R2 in HCP

Mr. R. Sundarakumar - R3 in HCP

Mr. S. Prabakaran
for Mr. D. S. Amalraj - R4 in HCP

C O M M O N O R D E R

(Order of the Court was made by P.N. PRAKASH, J.)

Habeas Corpus Petition is filed by the husband of the detainee Veena for a direction to the respondent - police to produce the detainee before this Court and set her at liberty. Criminal Original Petition is filed for grant of anticipatory bail to the petitioners in the event of their arrest.

2. For the sake of convenience, the parties will be referred to by their name.

Veena is the daughter of Dr. R. Rangarajan and Dr. Shankuntala Rangarajan. Admittedly, she was suffering from Schizophrenia and she was given in marriage to one N.M. Narasimha Rao on 06.02.2014. Thereafter, their marriage appears to have run into rough weather. Admittedly, Veena is in the custody of her parents and her parents have filed an application under Sections 50 to 54 of the Mental Health Act, 1987 before the Principal District and Sessions Court, Thiruvallur to declare themselves as joint guardians for the person and property of Veena and the same is pending in M.H.O.P.No.205 of 2015. Veena has also filed divorce proceedings in H.M.O.P.No.2395 of 2015 to nullify the marriage on the ground that she was mentally unsound at the time of wedding. Thereafter, it appears that a complaint has been given to the respondent - police by Dr. R. Rangarajan, based on which, a case in Crime No.15 of 2015 for the offence under Section 498A, 506(ii) and 406 I.P.C. has been registered on 22.10.2015 against N.M. Narasimha Rao and his parents by the Inspector of Police, W-29 of All Women Police Station, Avadi, Chennai.

3. In this background, N.M.Narasimha Rao and his parents have approached this Court by filing a petition in CrI.O.P.No.26545 of 2015 for grant of anticipatory bail in Cr.No.15/2015. Besides this, Narasimha Rao has also filed the present Habeas Corpus Petition for a direction to secure and handover his wife Veena to him.

4. When the anticipatory bail petition in CrI.O.P.No.26545 of 2015 came up for hearing before a learned single Judge on 30.10.2015 and the Judge, after making an elaborate enquiry, has issued several directions, which, in our considered opinion, are redundant in the present facts and circumstances of the case. The learned Single Judge has further directed that CrI.O.P.No.26545 of 2015 be posted along with the present Habeas Corpus Petition and hence the same is before us.

5. We have heard Mrs.Nalini Chidambaram, learned Senior Counsel appearing for the petitioners, Mr.R.Krishnamoorthy, Mr.A.N.Thambidurai, learned Additional Public Prosecutor appearing for the first respondent learned Senior Counsel appearing for the second respondent, Mr.R.Sundarakamesh, learned counsel appearing for the third respondent and Mr.S.Prabakaran, learned counsel appearing for the fourth respondent.

6. In our considered opinion, the issue of mental health of Veena has to be adjudicated in M.H.O.P.No.205 of 2015 before the Principal District Judge, Thiruvallur and this Court cannot go into these disputed questions of fact neither in the HCP nor in an application filed for grant of anticipatory bail.

7. In such circumstances, the directions issued by the learned single Judge in CrI.O.P.No.26545 of 2015 dated 30.10.2015 are hereby recalled. This Court finds that there is prima facie material in favour of Narasimha Rao and his parents for grant of anticipatory bail. This Court is of the considered view that this is a fit case for grant of anticipatory bail. Useful reference in this regard can be had to the decision of the Supreme Court in the case of Arnesh Kumar Vs State of Bihar and another [2014] 8 SCC 273, wherein the Supreme Court has held as follows:

"There is phenomenal increase in matrimonial disputes in recent years. The institution of marriage is greatly revered in this country. Section 498-A of the IPC was introduced with avowed object to combat the menace of harassment to a woman at the hands of her husband and his relatives. The fact that Section 498-A is a cognizable and non-bailable offence has lent it a dubious place of pride amongst the provisions that are used as weapons rather than shield by disgruntled wives. The simplest way to harass is to get the husband and his relatives arrested under this provision. In a quite number of cases, bed-ridden grand-fathers and grand-mothers of the husbands, their sisters living abroad for

decades are arrested. "Crime in India 2012 Statistics" published by National Crime Records Bureau, Ministry of Home Affairs shows arrest of 1,97,762 persons all over India during the year 2012 for offence under Section 498-A of the IPC, 9.4% more than the year 2011. Nearly a quarter of those arrested under this provision in 2012 were women i.e. 47,951 which depicts that mothers and sisters of the husbands were liberally included in their arrest net. Its share is 6% out of the total persons arrested under the crimes committed under Indian Penal Code. It accounts for 4.5% of total crimes committed under different sections of penal code, more than any other crimes excepting theft and hurt. The rate of charge-sheeting in cases under Section 498A, IPC is as high as 93.6%, while the conviction rate is only 15%, which is lowest across all heads. As many as 3,72,706 cases are pending trial of which on current estimate, nearly 3,17,000 are likely to result in acquittal."

8. Accordingly, the petitioners in Crl.O.P.No.26545 of 2015 are ordered to be released on bail in the event of arrest or on their appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate, Ambattur, on condition that each of the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties each for a like sum to the satisfaction of the respondent police or the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further condition that the petitioner shall report before the respondent police as and when required for interrogation.

9. With regard to the Habeas Corpus Petition, we find that the detainee Veena is not in the illegal custody and is in the custody of her parents. Therefore, no Writ of Habeas Corpus could be issued. Accordingly, the Habeas Corpus Petition stands dismissed.

Sd/-

Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

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To

1. The Inspector of Police,
E4 Police Station,

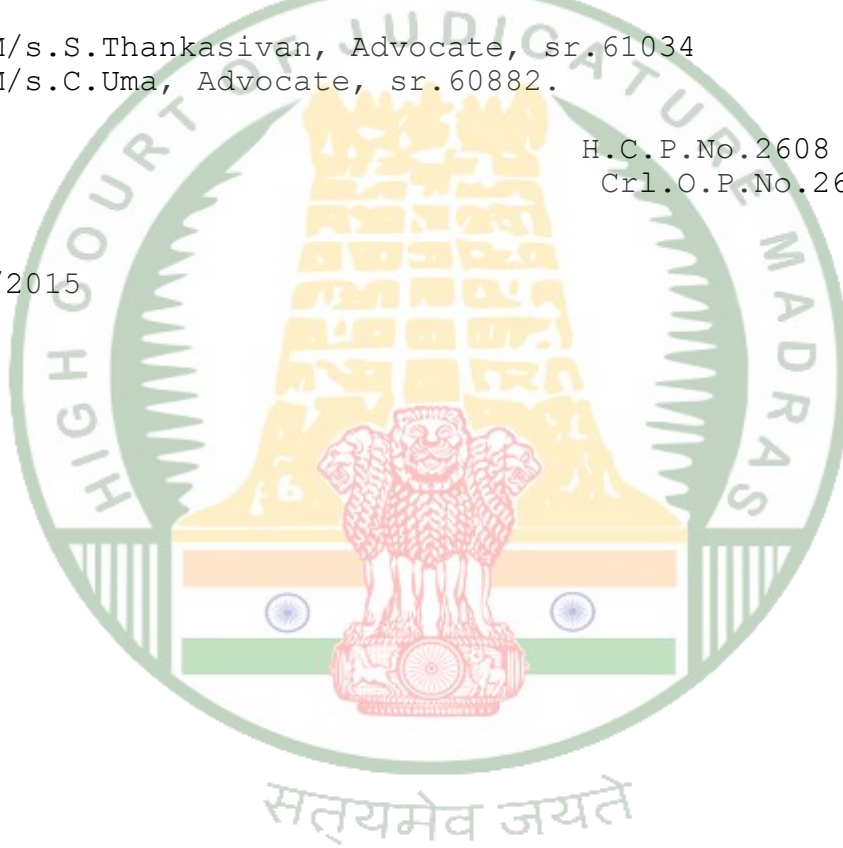
Abhiramapuram Police Station,
Sriram Colony, Abhiramapuram,
Chennai - 600 018.

2. The Inspector of Police W29,
All Women Police Station,
Avadi, Chennai 54.
3. The Public Prosecutor, High Court, Madras.
4. The Judicial Magistrate, Amabattur.
5. -do- Thro, The Chief Judicial Magistrate, chengalpet.

+1 cc to M/s.S.Thankasivan, Advocate, sr.61034
+1 cc to M/s.C.Uma, Advocate, sr.60882.

H.C.P.No.2608 of 2015 and
Cr1.O.P.No.26545 of 2015

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