

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.02.2015

CORAM

THE HONOURABLE MR.JUSTICE S.MANIKUMAR
and
THE HONOURABLE MRS.JUSTICE ARUNA JAGADEESAN

H.C.P. No.358 of 2015

K.NARAYANAPPA

[PETITIONER]

Vs

- 1 THE STATE REP BY
THE INSPECTOR OF POLICE MATHIGIRI POLICE
STATION SIPCOT POLICE STATION
KRISHNAGIRI DT
- 2 THE SUPERINTENDENT OF POLICE
KRISHNAGIRI DISTRICT OFFICE OF THE DISTRICT
POLICE OFFICE KRISHNAGIRI
- 3 MUNIYAPPA
S/O DEVAYYA NAGONDAPALLI VILLAGE AND POST
HOSUR TALUJK KRISHNAGIRI DT
- 4 SANTHOSH
S/O NOT KNOWN TO THE PETITIONER SUB
INSPECTOR OF POLICE MATHIGIRI POLICE
STATION KRISHNAGIRI DT
- 5 JAYAPAL
S/O NOT KNOWN TO THE PETITIONER SUB
INSPECTOR OF POLICE MATHIGIRI POLICE
STATION KRISHNAGIRI DT
- 6 MALARDEVI
D/O NOT KNOWN TO THE PETITIONER POLICE
CONSTABLE MATHIGIRI POLICE STATION
KRISHNAGIRI DT

[RESPONDENTS]

Petition filed under Article 226 of the Constitution of India praying for a writ of habeas corpus, against the respondents 1 to 6 to produce the body of the detainee by name LAKSHMI Aged 18 yrs before this Hon'ble court.

For Petitioner : Mr.C.R.Malarvannan
For Respondents: Mr.A.N.Thambidurai, (For R1 and R2)
Additional Public Prosecutor
Mr. R.Baskar (For R3)

ORDER

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

Facts as deduced from the supporting affidavit are that 18.01.2015, around 7.00pm, about five persons were consuming liquor adjacent to his house, the petitioner asked them to leave the place, for which they threatened him. Thereafter, at 11.45 pm, when he woke up, his daughter Lakshmi was missing. A search was made. He received a telephone call from Tiruppur stating that his daughter was at Tiruppur Railway Station. Police Constable viz., Ms.Latha, belonging to Tiruppur Railway Police, gave the petitioner two mobile numbers and informed him to contact. When he called up those numbers, the reply was that no one in the name Lakshmi was detained.

2. According to the petitioner, there was a longstanding dispute between him, and one Muniappa, the 3rd respondent. He alleged that Devayya, father of 3rd respondent kidnapped his daughter, in the month of October 2014. She was detained at Bangalore. When the petitioner approached this Court for a direction, his daughter was produced before the learned Judicial Magistrate No.II, Hosur.

3. The petitioner has further alleged that Santhosh, Sub Inspector of Police, Mathigiri Police Station, Krishnagiri District, respondent No.4, has a grudge against him, for the reason that the petitioner had lodged a complaint against him for taking the petitioner's son's vehicle. He has made further allegation that Muniappa, the 3rd respondent herein, alongwith the official respondents 4 to 6 have kidnapped his daughter, and illegally detained her in some unknown place. Respondents 4 to 6 are police officials. According to him, though a complaint dated 23.01.2015 was given to the Inspector of Police, Mathigiri Police Station, Krishnagiri District, no action was taken, and hence the present Habeas Corpus Petition.

4. On 20.02.2015, when the matter came up for hearing. the alleged detainee was produced. Considering the alleged involvement of Police Constables viz., Respondents 4 to 6, we directed the Superintendent of Police, Krishnagiri to be present on 23.02.2015 to explain as to what course of action has been taken. We also directed the records to be produced.

5. Upon enquiry, this Court felt that the alleged detainee required medical examination and counselling. We therefore, directed the person-in-charge of Marialaya Women Care, Tiruppur, to get the alleged detainee medically examined. We directed the medical report to be submitted on 23.02.2015 and thus, the matter is listed today.

6. Ms.P.Kannammal, Superintendent of Police, Krishnagiri District is present. Ms.Jenifer, Counsellor of Tiruppur Auxilium Salesian Sisters Society MARIALAYA is also present.

7. Superintendent of Police, Krishnagiri has filed a detailed action taken report, wherein she has set out the details regarding the missing of the petitioner's daughter from August 2014, filing of a case in Mathigiri Police Station, Krishnagiri District, in Cr.No.164 of 2014, under the caption 'Girl Missing' and securing the alleged detainee from Bosco Vasthsalaya Bhavan, Bangaluru, Home for destitutes Women and Girls and consequently production of the alleged detainee before the learned Judicial Magistrate No.II, Hosur on 28.10.2014.

8. In the light of the details furnished by the Superintendent of Police, Krishnagiri, duly supported by the copy of the FIR in Mathigiri Police Station, Krishnagiri District, in Cr.No.164 of 2014, letter dated 11.09.2014 of Bosco Vasthsalaya Bhavan, Bangaluru, Home for destitutes Women and Girls, Statement given by the victim before the learned Judicial Magistrate No.II, Hosur dated 28.10.2014 and the undertaking of the parents of the alleged detainee given to the learned Judicial Magistrate No.II, Hosur dated 28.10.2014, enclosed in the typed set of papers, the allegations of the petitioner made at para No.4 of the supporting affidavit to the present Habeas Corpus Petitioner are not true. On the contra, documents, stated supra, make it clear that during August 2014, the alleged detainee, seemed to have left the home on her own. Perusal of the letter dated 11.09.2014 also indicates that she was not willing to stay at the Bosco Vasthsalaya Bhavan, Bangaluru, Home for the destitute Women and Girls and that a letter has been addressed to the Director, Abhalashrama, Bangalore to provide her skill training and job placement.

9. As regards the allegations made against Mr.Santhosh, Sub Inspector of Police, the 4th respondent, by way of reply, the Superintendent of Police, Krishnagiri, has stated as follows:

"with regard to the averments made in Para-5 of the affidavit, it is submitted that on 27.09.2014 near Chinna Belagondapalli Junction when the Sub-Inspector of Police, Mathirigi PS (4th Respondent) was on town rounds, two persons, on seeing the police party, ran away leaving the two wheeler motor cycle bearing Reg.No.TN-25-V-9933. The Sub-Inspector of Police, Mathirigi seized the abandoned

vehicle and registered a case in Mathirigi PS Cr.No.75/14 on 27.09.2014 u/s. 102 Cr.P.C. On verification of the ownership, it is learnt that the vehicle belonged to one Prasanna, S/o. Narayanappa (the petitioner). Later the owner of the vehicle was directed to produced the original documents before Executive Magistrate - II cum Tashildhar, Hosur for verification. The vehicle is in the custody of the Executive Magistrate-II Court, Hosur and the owner of the vehicle can approach the Executive Magistrate and can get back his vehicle. Hence, I submit that the allegation levelled against the Sub-Inspector of Police (Respondent 4) is incorrect."

10. Case in Cr.No.75 of 2014 has been registered and that the matter is stated to be pending.

11. As regards the allegations that Muniappa, 3rd respondent, alongwith official respondents 4 to 6 have kidnapped and detained the petitioner's daughter, and the inaction on the part of the Inspector of Police, Mathigiri Police Station, Krishnagiri District, for not taking proper action, on the complaint dated 23.01.2015, inviting the attention of this Court to the Call Detail Records of the petitioner, the alleged detainee, person-in-charge from the Home, Ms.Latha, Head Constable of Tiruppur Railway Police Station, and further inviting the attention of this Court to a letter dated Nil of the petitioner, Superintendent of Police, Krishnagiri, has submitted that when the alleged detainee was found at Tiruppur Railway Station, Ms.Latha, Head Constable attached to the said Tiruppur Railway Station had enquired the alleged detainee, who was wandering and after obtaining the details of her father and residence, the said police woman had contacted the petitioner, over his mobile No.9965692578.

12. We have enquired, Ms.Latha, Head Constable, Tiruppur Railway Police Station, who stated that the whereabouts of the alleged detainee was informed to the petitioner on 19.01.2015 itself. Call Detail Records produced before this Court, discloses conversation between the petitioner's mobile number (9965692578) and that of the Head Constable Ms.Latha (9498127357).

13. Material on record further discloses that Sub Inspector of Police Mr.N.Iyyanar, Sub Inspector of Railway Police Station, Tiruppur has made a request dated 19.01.2015 to keep the alleged detainee in Marialaya Home for Women, Tiruppur. Tiruppur Auxillium Salestian Sisters Society MARIALAYA, has also addressed a letter dated 22.02.2015 to Mathigiri Police Station, Krishnagiri District, setting out the details, as to how the alleged detainee, was admitted in the home.

14. Call Detail Records further discloses that on 24.01.2015 and 25.01.2015, the petitioner has made frequent calls with the alleged detainee. She admits that she has a mobile with No.9788876104. Call Detail Records discloses that 12 calls seemed to have been made between the petitioner and the alleged detainee, on 24.01.2015 and 25.01.2015, respectively.

15. Before the Sub Inspector of Police, the alleged detainee seemed to have stated that she took a train to Tiruppur on her own. Even during enquiry before us, it is her specific statement that as her father, has suspicion over her conduct, she does not want to stay at Nagondapalli. Enquiry further revealed that she does not even want to stay at the Home..

16. Ms.Jenifer, Counsellor of Marialaya, submitted that the alleged detainee, is in the care and protection of Tiruppur Auxillium Salestian Sisters Society MARIALAYA from 19.01.2015 onwards.

17. From the above submission of the Superintendent of Police, Krishnagiri, duly supported with material documents enclosed in the typed set

of papers, there is no prima facie case of illegal detention of the detainee by respondents 3 to 6. At this juncture, it is also to be noted that in the undated thumb impression affixed letter of the petitioner addressed to the Sub Inspector of Police, Mathigiri Police Station, Krishnagiri District, enclosed in the typed set of papers, and filed by the Superintendent of Police, Krishnagiri, there is no specific allegations against respondents 4 to 6, that they were involved in the alleged abduction and detention.

18. On the contra, the petitioner has categorically stated that he has received an intimation on 19.01.2015, from Tiruppur. He has also given the details of the mobile numbers of Mr.Iyyanar, Sub Inspector of Police, Tirupur Railway Police Station as well as, Ms.Latha, Head Constable. But in the subsequent complaint dated 23.01.2015, addressed to the Inspector of Police SIPCOT Police Station, Krishnagiri District, with a copy marked to the Superintendent of Police, Krishnagiri District, respondents 1 and 2 respectively, the petitioner has improved his case, by alleging involvement of the official respondents 4 to 6.

19. As stated supra, allegations made against the police officials, are not prima facie established. Alleged detainee is in care and protection of Tiruppur Auxillium Salestian Sisters Society MARIALAYA. She is not in illegal detention. Therefore, question of issuance of Habeas Corpus does not arise.

20. However, having regard to the directions dated 20.02.2015, subjecting the petitioner for medical examination, Ms.Jenifer, Counsellor, Maryalaya submitted that the general activities of the alleged detainee is by and large normal. However, the Casualty Medical Officer, Government Headquarters Hospital, Tiruppur in her report dated 22.02.2015 has observed that the alleged detainee has 'hypo maniac personality' - Adjustment disorder with family/father. He has further opined that patient may be subjected to psychological evaluation at Institute of Mental Health, Chennai.

21. In view of the opinion of the Casualty Medical Officer, respondents 1 and 2 are directed to make necessary arrangements to subject the detainee viz.Lakshmi aged about 18 years, for psychological evaluation and treatment as per the Medical opinion. Respondents 1 and 2 shall cause production of all papers to the Director, Institute of Mental Health, Chennai including the antecedents. Director, Institute of Mental Health, Chennai, shall depute the concern to examine the alleged detainee. Based on the examination, opinion of the expert and past history, he shall submit a report to Tiruppur Auxillium Salestian Sisters Society MARIALAYA.

22. Alleged detainee shall be kept in Tiruppur Auxillium Salestian Sisters Society MARIALAYA. Depending upon the psychological evaluation and opinion of the doctors, Rev.Sr.Victoriya, stated to be the person-in-charge of Tiruppur Auxillium Salestian Sisters Society MARIALAYA, is at liberty to make necessary applications, in this Court.

23. We place on record the proper assistance rendered by Ms.P.Kannammal, Superintendent of Police, Krishnagiri District, for effective disposal of this Case.

24. With the above directions, the Habeas Corpus Petition is disposed of.

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-s/d-
Assistant Registrar(CO)
Dt:23/2/2015

True Copy

Sub-Assistant Registrar

To

1. THE STATE REP BY
THE INSPECTOR OF POLICE MATHIGIRI POLICE
STATION SIPCOT POLICE STATION
KRISHNAGIRI DT

2 THE SUPERINTENDENT OF POLICE
KRISHNAGIRI DISTRICT OFFICE OF THE DISTRICT
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5 MALARDEVI
SUB INSPECTOR OF POLICE
MATHIGIRI POLICE STATION KRISHNAGIRI DT

6 THE PUBLIC PROSECUTOR,
HIGH COURT, MADRAS

7. THE DIRECTOR
INSTITUTE OF MENTAL HEALTH
AYANAVARAM, CHENNAI.

8 REV.SR.VICTORIYA
MARIALAYA
TIRUPUR AUXILIUM SABESTIAN SISTER SOCIETY
TIRUPUR.

9 THE SECTION OFFICER,
CRIMINAL SECTION,
HIGH COURT, MADRAS

10 DR. INCHARGE
GOVT. HEADQUARTERS HOSPITAL,
TIRUPUR.

+ 1 CC TO MR.R.Baskar, Advocate SR 9672

+ 1 cc to Mr.N.Mohideen Basha, Advocate SR 9759

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