



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23-03-2015

CORAM

THE HONOURABLE MR.JUSTICE M.JAICHANDREN
AND
THE HONOURABLE MR.JUSTICE ARUNA JAGADEESAN

H.C.P.No.73 of 2015

R.Priyadarshini

.. Petitioner.

Versus

1. The Director General of Police,
Santhome, Chennai-600 005.

2. The Commissioner of Police,
Vepery, Chennai-600 007.

3. The Inspector of Police,
R-6, Kumaran Nagar Police Station,
Jaferkhanpet, Chennai-600 083.

4. Anandan

5. Lilly Molly

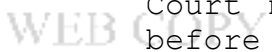
6. Rupdolph Stanley Pinto

.. Respondents.

Prayer: Petition filed under Article 226 of the Constitution of India, praying for a Writ of Habeas Corpus to direct the respondents 2 and 3 to produce the body of the petitioner's husband, Manoj, the detenu hereunder, who at present, is under the illegal custody of the respondents 4 to 6, to produce him before this Court and to set forth him at liberty.

For Petitioner : Mr.R.John Sathyan

For Respondents : Mr.A.N.Thambidurai,
Additional Public Prosecutor (R1 to R3)
Mr.N.R.Elango, Senior Counsel
for Mr.R.Vivekananthan for R4



ORDER

This Habeas Corpus Petition has been filed praying that this Court may be pleased to direct the respondents 2 and 3 to produce before this Court the detenu, namely, Manoj Rajan, said to be under the illegal custody of respondents 4 to 6 and to set him at liberty.

2. The petitioner has stated that she had married the detenu, namely, Manoj Rajan, Son of Edwin J.Rajan, on 29.9.2008. The petitioner has further stated that the detenu has been deaf and dumb, from the time of his birth. However, the petitioner had married him out of her own free will and consent. The marriage had been arranged by the aunt of the petitioner, namely, Vasanthi. While so, the fourth respondent who has been the auditor for the father-in-law of the petitioner was instrumental in creating a rift between the petitioner and her father-in-law, by making false allegations against her. The marriage between the petitioner and the detenu had not been consummated. In such circumstances, a divorce had taken place between the petitioner and the detenu, by mutual consent, due to the compulsion of the father-in-law of the petitioner and the fourth respondent herein.

3. It has also been stated that the decree of divorce granted by the II Additional Family Court, Chennai, in O.P.No.2409 of 2009, dated 5.1.2010, is non est in the eye of law, as the detenu was not in a proper mental state and as he was not in a balanced mental condition at the time of the passing of the decree of divorce, by mutual consent. It has also been stated that the decree of divorce had been obtained by fraudulent means, at the behest of the father-in-law of the petitioner and on the illegal advice given by the fourth respondent. Thereafter, the mental and physical condition of the detenu had deteriorated, sharply, and therefore, he had been admitted in the Charity Home for the Mentally Retarded, at Gudalur, The Nilgiris, in the State of Tamilnadu, against his wishes. The treatment given to the detenu is inadequate and he has been forced to live in pathetic conditions.

4. The petitioner has further stated that the fourth respondent has been instrumental in inducing the father-in-law of the petitioner, who had passed away on 26.12.2013. The 5th and the 6th respondents have also played a role in the deterioration of the physical and mental health condition of the detenu. The respondents 4, 5 and 6 have planned to swindle the properties belonging to the detenu, whose mental and physical condition has been deteriorating. In such circumstances, the petitioner has preferred the present Habeas Corpus Petition, with the intention of preventing the swindling of the properties by the respondents 4, 5 and 6 and for providing a better medical and other facilities, taking into consideration the welfare of the detenu.



5. The learned Senior counsel appearing on behalf of the respondents 4, 5 and 6 had vehemently denied the allegations made against them, by the petitioner. It had been stated that the fourth respondent has been taking care of the welfare of the detenu. The detenu is under the good care of the Charity Home for the Mentally Retarded at Gudalur, The Nilgiris.

6. Pursuant to an order passed by this Court, dated 16.2.2015, a status report has been filed by Mrs. Sherly Kuriakose, Phase II Master Trainer for Care Givers, Gudalur, Nilgiris District. In view of the said report, dated 18.2.2015, and in view of the certificate given by the Chief Civil Surgeon, Government Hospital, Gudalur, The Nilgiris, it is found that the detenu has certain mental and physical disabilities.

7. In view of the submissions made by the learned counsels appearing on behalf of the petitioner, as well as the respondents and on a perusal of the records available, it is noted that the detenu has been taken care of by the Charity Home for the Mentally Retarded at Gudalur, The Nilgiris and therefore, we find no necessity to pass any further orders, with regard to his mental and physical condition. We are also of the considered view that, in view of the decree of divorce granted by the II Additional Family Court, Chennai, in O.P.No.2409 of 2010, and as the divorce had been granted by mutual consent, the petitioner could not have the locus standi to maintain the present Habeas Corpus Petition, making certain serious allegations against the respondents 4 to 6 herein. Hence, we are inclined to dismiss the Habeas Corpus Petition holding that the petitioner does not have the locus standi, in the given facts and circumstances of the case, to seek the reliefs, as prayed for in the present Habeas Corpus Petition. Accordingly, it is dismissed. However, we make it clear that it may be open to the parties concerned to make their claims, if any, with regard to the properties said to be belonging to the detenu, before the appropriate forum, in the manner known to law.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

csH



To

1. The Director General of Police,
Santhome, Chennai-600 005.

2. The Commissioner of Police,
Vepery, Chennai-600 007.

3. The Inspector of Police,
R-6, Kumaran Nagar Police Station,
Jaferkhanpet, Chennai-600 083.

4. The Public Prosecutor,
High Court, Madras.

2 cc to Mr. R.Vivekananthan, Advocate, SR.No.16859

2 cc to Mr.R.John Sathyan ,Advocate, SR.No.16512 & 16090

H.C.P.No.73 of 2015

skv(co)
pmk.22.4.2015