

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.06.2015

CORAM:

THE HONOURABLE DR. JUSTICE S.TAMILVANAN  
and  
THE HONOURABLE MR.JUSTICE C.T.SELVAM

H.C.P.No.326 OF 2008

G.Haribabu

... Petitioner

vs.

1. The State represented by the Secretary to Government, Home Department, Fort Saint George, Chennai-9.
2. The Additional Director General of Prison, Tower-2, No.1, Gandhi Irwin Road, Egmore, Chennai-600 008.
3. The Superintendent, Central Prison, Vellore.
4. The Superintendent of Police, Vellore.
5. The Assistant Director, SCB/CBI, Chennai-20.

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of habeas corpus petition directing the 3<sup>rd</sup> respondent to produce the detenu Ganesan before this Court and set him at liberty from solitary confinement.

For Petitioner : Mr.A.Sankarasubbu

For Respondents : Mr.A.N.Thambidurai,  
1 to 4 Additional Public Prosecutor

For - R5 : A.K.Srinivasan for CBI

For Intervenor : M/s.Sudha Ramalingam

## ORDER

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

The petitioner, by invoking Article 226 of the Constitution of India, has come forward with this petition seeking order against the Superintendent of Police, Vellore, the 4<sup>th</sup> respondent herein to conduct enquiry on the alleged rape of one Nathiya, wife of Ganesan, by jail authorities at Vellore Prison.

2. Heard the learned Counsel for the petitioner as well as the learned Additional Public Prosecutor appearing for the respondents 1 to 5.

3. It is an undisputed fact that the above said allegation was already negatived by a Division Bench of this Court in HCP.No.179 of 2008 by order dated 25.02.2008. Aggrieved over the said order, no appeal or revision was preferred by the petitioner therein, namely, Ganesan and his wife, namely, the alleged victim Nathiya.

4. When things stood thus, it is seen that a Social Worker has filed this Habeas Corpus Petition to take action against the 4<sup>th</sup> respondent in connection with the alleged rape of Nathiya, W/o.Ganesan. When there is an allegation of rape, it would, normally, tarnish the image of the alleged victim.

5. Considering the gravity of the offence and the seriousness of the situation, we are of the opinion that a 3<sup>rd</sup> party cannot file such kind of petition. If need be, the alleged victim or the petitioner therein could have preferred an appeal or revision against the order passed by the Division Bench of this Court. But, it is not open to the petitioner herein, who is a third party, to approach this Court by filing yet another Habeas Corpus Petition in this regard. At the most, the petitioner herein can work out his remedy in the manner known to law. However, having gone through the submission of both sides and the counter affidavit filed by the respondents, especially, in para 14 of the counter affidavit of the 4<sup>th</sup> respondent, we are of the view that the Fact Finding Team had caused incalculable damage to the honour and dignity of the alleged victim Nathiya and it had come again to ruin the prospectus of a normal life of the alleged victim Nathiya, that cannot be permitted.

6. In the result, the Habeas Corpus Petition is not at all maintainable and the same is accordingly dismissed as not maintainable.

Sd/-  
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary,  
Home Department,  
Fort St. George, Chennai - 9.
2. The Additional Director of Prison,  
Tower - 2, No.1, Gandhi Irwin Road,  
Egmore, Chennai - 8.
3. The Superintendent,  
Central Prison, Vellore
4. The Superintendent of Police,  
Vellore.
5. The Assistant Director,  
SCB/CBI, Chennai - 20.
6. The Public Prosecutor  
High Court, Madras.

+1cc to M/s.Sudha Ramalingam, Advocate, S.R.No.30479

H.C.P.No.326/2008

SAI (CO)  
CA(06/07/2015)

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