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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.04.2015

CORAM:

THE HONOURABLE MR.JUSTICE A.SELVAM

and

THE HONOURABLE MR.JUSTICE V.S.RAVI

HCP (MD) No.213 of 2015

Kani Sintha

.. Petitioner

Vs.

1.The Superintendent of Police,
Sivagangai District.

2.The Inspector of Police,
Kalayarkovil Police Station,
Sivagangai District.

3.Thanikodi

4.Rajam

5.Kannamma

6.Banu

7.Selvi

.. Respondents

Habeas Corpus Petition is filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus directing the 2nd respondent to secure and produce the persons or bodies of the detenu, petitioner's husband Raja S/o.Thanikkodi aged about 32 years and her son Anbarasan S/o.Raja aged about 4 years before this Court and set them at liberty.

For Petitioner : Mr.R.Murugan

For Respondents : Mr.T.Mohan,
Addl. Public Prosecutor

ORDER

(Order of the Court was made by A.SELVAM, J)

This Habeas Corpus Petition has been filed under Article 226 of the Constitution of India praying to direct the respondents 1 and 2 to trace out and produce the detenu by name Raja and Anbarasan who are the husband and minor son of the petitioner.

2. It is stated in the petition that the first detenu is the husband of the petitioner and second detenu is their minor son and both of them are missing and now they are under the illegal custody of the respondents 3 to 7. Under the said circumstances, the present petition has been filed for getting the relief sought for therein.



3. The learned counsel appearing for the petitioner has reiterated the averments made in the petition and further he has contended that the second respondent viz., Inspector of Police, Kalayarkoil Police Station has not evinced any interest so as to trace out and produce the detenu.

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4. The learned counsel appearing for the respondents 3 and 4 who are nothing but parents of the said Raja has contended to the effect that the petitioner has already filed GWOP No.12 of 2014 and she has also given a complaint against her husband and in-laws and the same has been registered in Crime No.6 of 2014 under Sections 498-A and 294(b) of the Indian Penal Code. Under the said circumstances, the present petition is not legally maintainable.

5. As pointed out earlier, the present petition has been filed so as to give necessary direction to the second respondent to trace out and produce the detenu.

6. The learned Additional Public Prosecutor has submitted the Case Diary filed relating to Crime No.6 of 2014, wherein it has been clearly stated that the concerned complaint has been given by the present petitioner against her husband and in-laws and the same has been registered in Crime No.6 of 2014 under Sections 498-A and 294(b) of the Indian Penal Code.

7. The learned counsel appearing for the respondents 3 and 4 has submitted the petition filed in GWOP.No.12 of 2014 and the same has been filed on 09.06.2014 by the present petitioner so as to give legal custody of her minor son. The present petition has been filed during February 2015. No where it is stated that the petitioner has already instituted GWOP No.12 of 2014.

8. Considering the fact that the petitioner has already given a police complaint and the same has been registered in Crime No.6 of 2014 under Sections 498-A and 294(b) of the Indian Penal Code against her husband and in-laws and also considering that for getting proper remedy she has already filed GWOP No.12 of 2014, the petitioner can very well work out her remedy in GWOP No.12 of 2014. Under the said circumstances, the relief sought for in the petition cannot be granted. With the above observation, this petition is liable to be disposed of.

9. In fine, this Habeas Corpus Petition is disposed of on the basis of the observation made earlier. The petitioner is strictly directed to work out her remedy in GWOP No.12 of 2014.

Sd/-

Assistant Registrar (CO)

/True copy/

Sub Assistant Registrar (C.S)



To

- 1.The Superintendent of Police,
Sivagangai District.
- 2.The Inspector of Police,
Kalayarkovil Police Station,
Sivagangai District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.R.Murugan, Advocate, in SR. No. 23701

+1cc to Mr.P.Venkatasubramanian, Advocate, in SR. No. 23240

TS/12.05.2015/3P-6C

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