



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 01.07.2015

Coram

THE HONOURABLE MR.JUSTICE A.SELVAM
AND
THE HONOURABLE MR.JUSTICE V.S.RAVI

H.C.P.(MD)No.483 of 2015

B.Nagavalli

.. Petitioner

Vs.

1.The Superintendent of Police,
O/o. Superintendent of Police,
Sivagangai District, Sivagangai.

2.The Inspector of Police,
All Women Police Station,
Thirupathur, Sivagangai District.

3.S.Palanichami

4.P.Kamuthai

5.C.Subbulakshmi

.. Respondents

Habeas Corpus Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus directing the respondents 1 & 2 to produce the body or person of the petitioner's husband namely P.Murugesan (27/15) S/o.Palanichamy before this Court and set him at liberty.

For Petitioner	:	Mr.S.Rajasekar
For RR - 1 & 2	:	Mr.T.Mohan
		Addl.Public Prosecutor
For R - 3	:	No appearance

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 & 2 to trace out and produce the detenu by name Murugesan.

2. The learned counsel appearing for the petitioner has contended that both the petitioner and detenu have worked together in a Mill and both of them have loved each other and consequently they married themselves. Now the detenu is under the effective custody of the respondents 3 to 5. Under the said circumstances, this petition has been filed for getting the relief sought for therein.



3. The learned Additional Public Prosecutor has represented that the petitioner as defacto complainant has given a complaint to the second respondent and the same has been registered in Crime No.5 of 2014 under Sections 376 and 120(b) of the Indian Penal Code, wherein the present detenu has also been shown as one of the accused and further some of the accused have been arrested and remanded to custody and some of them have filed anticipatory bail.

4. On the basis of the divergent contentions put forth on either side, this Court has perused the case diary filed relating to Crime No.5 of 2014, wherein it is found that the petitioner has given a complaint against the detenu and others and the same has been registered under the said sections. The petitioner has given another complaint on 14.09.2013, wherein it has been simply stated that both the petitioner and detenu have loved each other and married themselves. No mention has been made with regard to alleged rape as well as conspiracy.

5. Considering the fact that the complaint given by the petitioner has been registered in Crime No.5 of 2014 under Sections 376 and 120(b) of the Indian Penal Code and also considering that the present detenu has been shown as one of the accused, it is needless to say that the present petition has been filed only to secure the detenu by way of adopting short cut method. Since Crime No.5 of 2014 has been registered under Sections 376 and 120(b) of the Indian Penal Code, this Court is of the view that the second respondent can be directed to proceed with the case registered in Crime No.5 of 2014 and since the petitioner has taken inconsistent stand, the relief sought for in the petition cannot be granted and therefore, the present petition deserves to be dismissed.

6. In fine, this petition is dismissed. However, the second respondent viz., Inspector of Police, All Women Police Station, Thirupathur is directed to proceed with the complaint registered in Crime No.5 of 2014 under Sections 376 and 120(b) of the Indian Penal Code.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

1.The Superintendent of Police, O/o. Superintendent of Police,
Sivagangai District, Sivagangai.

2.The Inspector of Police, All Women Police Station,
Thirupathur, Sivagangai District.

3.The Addl.Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1cc to M/S.T.Lajapathy Roy, Advocate in SR.No 35411