



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.08.2015

CORAM:

THE HONOURABLE MR.JUSTICE S.NAGAMUTHU

and

THE HONOURABLE MR.JUSTICE V.S.RAVI

H.C.P(MD)No. 524 of 2015

R.Senthil

.. Petitioner

Vs.

1. Inspector of Police,
Cantonment Police Station,
Cantonment,
Trichy-1,
Trichy District.

2.Subramanian

3.Mani

4.Thiyagarajan

5.Paulraj

6.Uppendran

7.The Commissioner of Police,
O/o. The Commissioner of Police,
Subramaniyapuram,
Trichy District.

.. Respondents

(R7 impleaded as per order of this Court
dated 07/07/2015 and made in MP(MD)No.2 of 2015)

PRAYER: Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus, praying for a direction to the 2nd respondent herein to cause production of body or person of the petitioner's wife namely S.Lalithambigai, D/o.S.Subramaniam, aged 26 years who has been illegally detained by the 2 to 6 respondents herein before this Court and set her at liberty.

For Petitioner

: M/s.C.Padmaraj

For R1 and R7

: Mr. K.S.Duraipandian

Additional Public Prosecutor

For R2 to R6

: No Appearance

ORDER

[Order of the Court was made by **S.NAGAMUTHU, J**]

The petitioner claims to be the husband of one Lalithambigai, D/o.S.Subramanian. According to him, the marriage between them was celebrated on 29.08.2013 and the marriage was also duly registered. It is further alleged that after the marriage, they were living together as husband and wife till 12.03.2015. It is alleged that on 12.03.2015, she was taken by force by her father, namely, the second respondent and the other respondents, who are his associates. From that time onwards, she is found missing. Therefore he has come out with this Habeas Corpus Petition, seeking a direction to produce his wife Lalithambigai, before this court and set her at liberty.



2. We have heard the learned counsel for the petitioner, the learned Additional Public Prosecutor for R1 and R7 and there is no representation for the other respondents.

3. The learned Additional Public Prosecutor submitted that on a complaint made by the second respondent, namely, the father of the girl, a case was registered on the file of the Inspector of Police, Thanjavur Town East Police Station, Thanjavur, in Crime No.105 of 2015 under Section 366 I.P.C. During the course of investigation, the girl was secured and since she stated that she would like to go with her father, she was handed over to the custody of the second respondent. Now, she is residing with the second respondent in Srilanka. It is also brought to our notice by the learned Additional Public Prosecutor that the detenu filed a civil suit in O.S.No.155 of 2015 on the file of the III-Additional Family Court, Chennai, praying for a decree that there was no valid and subsisting marriage between her and the petitioner herein, as per the Hindu Marriage Act, 1955. She has also asked for a decree to declare the Marriage Certificate, dated 29.08.2013, as null and void. In these circumstances, according to the learned Additional Public Prosecutor, this Habeas Corpus Petition is not maintainable.

4. The learned counsel for the petitioner would vehemently submit that the complaint of the father, namely, the second respondent was made only in the year 2015, whereas, she was all along residing with the petitioner. But the perusal of the plaint filed in O.S.No.155 of 2015, would go to show that Lalithambigai has stated that she was all along residing with her father at Chennai.

5. From the above facts, we are of the view that there appears to be some dispute between the petitioner and his wife, which could be resolved only by the civil court. Lalithambigai is also very safe now in the care and custody of her father and the same is well known from the Civil Suit filed by the wife before the III Additional Family Court, Chennai.

6. In our considered view, this Habeas Corpus Petition deserves only to be dismissed as there is no illegal detention. While dismissing this petition, since we feel that the valuable time of this Court has been wasted by filing this Habeas Corpus Petition, by converting a matrimonial dispute into a Habeas Corpus Petition, we are inclined to impose cost upon the petitioner also. Having regard to the facts and circumstances of the case, imposing a cost of Rs.10,000/- (Rupees ten thousand only) on the petitioner, in our considered view, would meet the ends of justice.

7. In the result, the petition is dismissed with cost of Rs.10,000/- (Rupees ten thousand only) to be paid by the petitioner. The cost will be paid to the Government Girls Higher Secondary School, Thiruverumbur, Trichy District. The petitioner shall take a Demand Draft for Rs.10,000/- (Rupees ten thousand only) in the name of the Headmaster, Government Girls Higher Secondary School, Thiruverumbur, Trichy District and produce the same before the Registrar (Judicial) of this Court, on or before 25.08.2015.



8. Thereafter, the Registrar (Judicial) shall hand over the said Demand Draft to the Headmaster of the said school, who shall spend the amount for supplying uniforms to the poor children studying in the said school and submit a report to this Court after spending the entire amount for the said purpose.

Post the matter 'for reporting compliance' on 26.08.2015.

Sd/-

Assistant Registrar(CO)

/TRUE COPY/

Sub Assistant Registrar

To

1. The Inspector of Police,
Cantonment Police Station,
Cantonment,Trichy-1,Trichy District.
- 2.The Commissioner of Police,
O/o. The Commissioner of Police,
Subramaniyapuram,Trichy District.
- 3.The Registrar(Judicial),
Madurai Bench of Madras High Court,Madurai.
- 4.The Registrar(Administration),
Madurai Bench of Madras High Court,Madurai.
- 5.The Headmaster,
Government Girls Higher Secondary School,
Thiruverumbur,Trichy District.
- 6.The Chief Educational Officer,
Trichy District,Trichy.
- 7.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,Madurai.

Copy to:

- 1) The Section Officer,
Accounts Section,
Madurai Bench of Madras High Court,Madurai.
- 2) The Section Officer,
Criminal Section,
Madurai Bench of Madras High Court,Madurai.

+2ccs to Mr.C.Padmaraj,Advocate SR.Nos.47130 & 47189

ORDER MADE IN
H.C.P (MD) No.524 of 2015
18.08.2015