

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 05.01.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUDHAKAR
AND
THE HONOURABLE MR. JUSTICE P.N.PRAKASH

H.C.P. NO. 968 OF 2015

Mrs. V.Revathy @ Radha ... Petitioner/Mother
of the Detenu

- Vs -

1. The State of Tamil Nadu
rep. by The Inspector of Police
R-6, Tiruvanmiyur Police Station
Law & Order, Chennai 600 041.

2. P.Sakthi Raja ... Respondents

Petition filed under Article 226 of the Constitution of India for the issuance of a writ of habeas corpus directing the first respondent to secure the detenu, P.Needhi Raja, Son of the Petitioner herein aged about 27 years, produce him before this Court and set him at liberty.

For Petitioner : Mr. P.V.Ravichandran

For Respondents : Mr. A.N.Thambidurai,
Additional Public Prosecutor for R-1
Mr. B.Sudhir Kumar for R-2

ORDER

(DELIVERED BY P.N.PRAKASH, J.)

The present petition has been filed by the petitioner for a direction to the first respondent to secure the detenu, P.Needhi Raja, aged about 27 years, produce him before this Court and set him at liberty.

2. Heard the learned counsel appearing for the petitioner, the learned Addl. Public Prosecutor appearing for the first respondent and the learned counsel appearing for the second respondent.

3. It is the case of the petitioner that her son, P.Needhi Raja, aged about 27 years, went missing in connection with which a case in Crime No.1531/2015 has been registered by R-6, Tiruvanmiyur Police Station. Since the police authorities are not taking effective steps to trace the detenu, the petitioner has come forward with the present petition.

4. It is alleged by the petitioner in the petition that her husband, Perumal, lived with three women, viz., Saroja, Shyamala and Revathy-the petitioner herein. While the said Perumal had no issues through Saroja, through Shyamala the said Perumal had two sons, viz., the second respondent-Sakthi Raja, another son Maharaja and one daughter Maladevi. The detenu is the son born to the said Perumal and the petitioner herein. Perumal died in the year 2005 and, thereafter, there arose a family dispute with regard to partition of the property standing in his name.

5. It is further averred in the petition that the detenu has filed C.S. No.859 of 2014 on the file of this Court for partition and separate possession of the property and the same is pending. Even according to the petitioner as also evident from the statement recorded by the police authorities, the detenu was a law student and he had gone missing since 7.4.2015.

6. It further appears that prior to 7.4.15, the detenu had met with an accident while driving a motor cycle and suffered fracture for which he was treated at Balaji Hospital at Chrompet and also underwent surgery and was discharged on 7.4.15. After discharge on 7.4.15, according to the petitioner, her son, viz., the detenu, did not return home and he went missing. The needle of suspicion, according to the petitioner, points to the second respondent, viz., the step-brother, and the basis of the allegation is that in view of the partition suit, there is possibility of the detenu being secreted or abducted by the second respondent and his family members.

7. In the backdrop of the above averments, notice was issued to the respondents, and the second respondent has entered appearance through counsel. The second respondent along with his other brother - Maharaja, his elder sister - Maladevi and mother - Shyamala are present in Court.

8. The second respondent has filed a counter affidavit setting out the details of the dispute between him and the alleged detenu and further states that there is absolutely no basis in the petitioner's allegation that he had abducted the detenu. It is further submitted by the second respondent that his father, viz., Perumal, was living with different women at different points of time during his life time and that through two of the women, he had begotten children between whom there is a property dispute. It is further stated that the detenu was living with the mother of the second respondent for more than 20 years and was not raised by the petitioner, for reasons best known to her. The above fact that the detenu was living with the second respondent is further fortified by the fact that the petitioner herself, in the petition, has admitted that the detenu was living along with the second respondent and his family members. It is submitted by the second respondent that after the detenu became an adult, he started living his own life and is pursuing his career. The second respondent or any of his family members have no role in the alleged abduction or missing of the detenu.

9. This Court has enquired the second respondent as also his brother - Maharaja, mother - Shyamala and elder sister - Maladevi, who are present in Court and they have categorically stated that the detenu used to come once in a while, but of late, has stopped coming. It is further stated by the second respondent as also his other family members that there is no quarrel between them and the detenu except the litigation initiated by the said detenu.

10. On a consideration of the entire materials available before this Court, this Court is of the considered view that there is no tangible material on record to show that the detenu is under the illegal detention of the second respondent or his family members. This Court further finds that the second respondent and his family members are eking out their livelihood by selling milk and running cable television services. In such view of the matter, there being no credible material available to substantiate the charge of abduction of the detenu by the second respondent, the plea of illegal detention of the detenu at the hands of the second respondent cannot be maintained. Mere allegation that the detenu is in the illegal detention of the second respondent will not suffice in the absence of tangible material. Therefore, the detenu cannot be said to be under the illegal detention of any person, much less the second respondent.

11. In such view of the matter, this habeas corpus petition is closed with a direction to the respondent police to proceed with the investigation and keep the petitioner informed of any development/breakthrough in the case.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

GLN

To

1. The Inspector of Police
R-6, Tiruvanmiyur Police Station
Law & Order, Chennai 600 041.
2. The Public Prosecutor
High Court
Madras.

+1cc to Mr.P.V.Ravichandran, Advocate, S.R.No.1253

+1cc to Mr.B.Sudhir Kumar, Advocate, S.R.No.362

H.C.P. NO.968 OF 2015

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CA(20/01/2016)

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