

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.7.2016

CORAM

**THE HONOURABLE MR.JUSTICE S.NAGAMUTHU
and
THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN**

H.C.P.No.1027 of 2016

K.Mohandoss

..... Petitioner

Vs

1. The Protector General of Emigrants,
Ministry of Overseas Indian Affairs,
9th Floor, Akbar Bhawan,
Chanakyapuri, New Delhi - 110 021.

2. The Protector of Emigrants Chennai,
Ministry of Overseas Indian Affairs,
Government of India,
TNHP Complex,
Ashok Nagar, Chennai- 600 083.

3. The High Commissioner of India,
Level 28, Manarai Mon't Kiara,
50480 Kulaumpur,
Malaysia, Wilayah Persekutuan,
Kulaumpur.

4.The Consulate General of Malaysia,
No.7, (Old No:3) Cenotaph Road,
1st Street, Teynampet, Chennai- 600 004.

5. The District Collector,
Ariyalur, Ariyalur District.

6. The Superintendent of Police,

District Superintendent of Police,
Ariyalur.

7. The Inspector of Police,
Thuthur Police Station,
Ariyalur District.

8. Kamaruddin Andiappan Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS to produce the illegal detention of Nur Saadah Binti Kamaruddin Andiappan, F/25 years or bring the corpse of the detenu before this Court and set him at liberty from 1st to 4th, 6th and 8th respondents.

For Petitioner	:	Mr. R.Subramanian
For R1 to R4	:	Mr.J.Madanagopala Rao ACGSC
For R5 to R7	:	Mr. V.M.R.Rajentren APP

ORDER

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

The petitioner claims to be the husband of one Nur Saadah Binti Kamaruddin Andiappan, aged about 25 years. According to the petitioner, the detenu is a citizen of Malaysia. The petitioner further claims that during the year 2014, he was in Malaysia. During the said period, he developed

love with Nur Saadah Binti Kamaruddin Andiappan. During the month of March 2016, she came out to India. The petitioner had already come down to India. After coming over here, it is alleged that on 04.04.2016, she married the petitioner. Thereafter, she was taken by force back to Malaysia and illegally detained there. With these allegations, the petitioner has come up with this Habeas Corpus Petition.

2. We have heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the State and also learned Assistant Central Government Standing Counsel appearing for respondents 1 to 4.

3. From the records, it is clear that Ms. Nur Saadah Binti Kamaruddin Andiappan is not the citizen of this country and she is the citizen of Malaysia. Now, she is in Malaysia and it is not possible to bring her back to India without following international laws.

4. In our considered view, if the petitioner has got any dispute regarding the marriage between him and the detinue, he can work out the same in the manner known to law. If he feels that he is entitled to live with Nur Saadah Binti Kamaruddin Andiappan, the remedy lies elsewhere and

not under the Habeas Corpus jurisdiction of this Court. Now, in this jurisdiction, we are concerned only as to whether the detenue has been illegally detained or not. Undoubtedly, the detenue is not detained illegally and she is only in her country with her parents.

5. Thus, we find that the present petition is a clear abuse of process of law. We thought of imposing heavy cost on the petitioner for having wasted our time. In our considered view, since the petitioner is a poor man, we desist from imposing cost.

6. In the result, the petition is dismissed.

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(S.N.J.,) **(V.B.D.J.,)**
18.7.2016

To

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7. The Inspector of Police,
Thuthur Police Station,
Ariyalur District.

8. The Public Prosecutor,
High Court, Madras.

**S.NAGAMUTHU J.,
AND
V.BHARATHIDASAN, J.**

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