

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.6.2016

CORAM

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

H.C.P.No.1250 of 2016

NIVISHA Petitioner/Wife of the detenu

Vs

1 THE SUPERINTENDENT OF POLICE
OFFICE OF THE SUPERINTENDENT OF POLICE
TIRUVALLUR.

2 THE INSPECTOR OF POLICE
AWPS POONAMALEE TIRUVALLUR DISTRICT.

3 AMUDHA Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS directing the respondent police for production of my Husband MR.NAVEEN KUMAR the detenu herein aged years before this Hon`ble Court order his release from the illegal custody of the 3rd respondent herein.

For Petitioner : Mr.S.Nambi Arooran

For R1 & R2 : Mr.V.M.R.Rajentren
Additional Public Prosecutor

ORDER

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

The petitioner claims to be the wife of one Mr.Naveen Kumar. According to her, Mr. Naveen Kumar had fallen in love for her for about 4 years. They decided to marry, the mother of Naveen Kumar (3rd respondent herein) did not agree for the same. However, according to her, Mr. Naveen Kumar and the petitioner started living together in an apartment and they lived so for 4 years. She has further alleged that on 20.1.2016, Mr. Naveen Kumar took her to Arulmigu Aarupadaiyappan Tirukovil at Besant

Nagar, Chennai tied Thali and married her in the presence of close friends. She has further stated that Mr. Naveen Kumar assured her that he would persuade her parents and take her into the matrimonial home. She has further stated that on 03.05.2016 Mr. Naveen Kumar left her home early in the morning and thereafter, he never returned back. Her efforts to contact him through mobile phone proved futile. She also found that his mobile phone was under switch off mode. Since she was not able to contact her husband, on 05.05.2016, she made a complaint to second respondent. Based on the same, the second respondent registered a case in Cr.No.8 of 2016. But, so far Naveen Kumar's whereabouts is not known and he has not been rescued, is the grievance of the petitioner. Therefore, she has come up with this petition.

2. When this petition came up for hearing on 20.6.2016, the learned counsel for the petitioner took adjournment to produce documents to evidence the marriage between the petitioner and Mr. Naveen Kumar.

3. Today, when the matter was taken up, the learned counsel produced certain SMS conversation between the petitioner and Mr. Naveen Kumar. We have perused the same. There is no indication that there was marriage between them at any point of time.

4. The learned Additional Public Prosecutor produced the case diary in Cr.No.8/2016 registered under Sections 417 and 506 (i) of IPC against Mr. Naveen Kumar. A perusal of the FIR shows that according to the petitioner,, she is a graduate having BSc, B.Tech degrees to her credit. She has further stated that she has been acting in T.V Serials for the past 3 years. She further alleged that when she was working in FM radio, Mr. Naveen Kumar met her. The meeting became frequent. Later, it developed into a love for each other. Thereafter, she did not like to reside in a ladies hostel and therefore, she started living in a rented house. She has further stated that in due course, Mr. Naveen Kumar developed close intimacy with her and had sexual intercourse with her on several occasions. When she insisted him to marry, he told that he would not marry her because she happened to be an actress. The FIR further states that her parents have sent him to Maldives for employment. The crux of the allegation in the FIR is that having had sexual intercourse with the petitioner and having assured to marry her, Mr. Naveen Kumar has cheated her and now he has gone to Maldives where he is now, residing.

5. The learned counsel for the petitioner does not dispute the contents of the said complaint made on 05.05.2016. The learned counsel submits that she was ill advised to make such a complaint by not mentioning about the marriage. Therefore, according to the learned counsel, no weightage to be given for

the complaint which does not state that there was marriage between them.

6. In our considered view, in this Habeas Corpus Petition jurisdiction, we cannot go into the above question as to whether there was marriage or not. Prima facie from the complaint, it is seen that there was no marriage between the petitioner and Naveen Kumar and Naveen Kumar is presently employed in Maldives. Thus, there is no illegal detention. In view of the above facts culled out from the case diary which are not refuted by the learned counsel for the petitioner, we are unable to entertain the Habeas Corpus Petition. The remedy for the petitioner is to work out elsewhere.

7. In the result, this Habeas Corpus Petition is dismissed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

- 1 THE SUPERINTENDENT OF POLICE
OFFICE OF THE SUPERINTENDENT OF POLICE
TIRUVALLUR.
- 2 THE INSPECTOR OF POLICE
AWPS POONAMALEE TIRUVALLUR DISTRICT.
3. THE PUBLIC PROSECUTOR,
HIGH COURT, MADRAS.

+1cc to Mr.S.Nambi Arooran, Advocate sr.35015

H.C.P.No.1250 of 2016

pvs[col]
srg 19/07/2016

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