

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.7.2016

CORAM

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

H.C.P.No.1291 of 2016

Kalyani Jayapaul

... Petitioner

Vs

1.The Superintendent of Police,
Nagapattinam District.

2.The Inspector of Police,
Keevalur Police Station,
Nagapattinam District.

3.M.Kalyanasundaram

4.K.Bala @ Balamurugan

5.Mrs. Selvi

.... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS directing the 2nd respondent to produce the detainee Mrs.Valli Murugan w/o late Murugan, aged about 78 years before this Court and set the detainee Mrs.Valli Murugan at liberty based on the complaint lodged by the petitioner dated 24.03.2016.

For Petitioner : No appearance

For Respondent : Mr.V.M.R.Rajentren
Additional Public Prosecutor

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ORDER

(Order of the Court was made by V.BHARATHIDASAN J.)

The petitioner is the daughter of one Mrs. Valli Murugan, w/o Late Murugan, aged 78 years. According to the petitioner, Mrs. Valli Murugan was living separately in Panaimeadu village in Nagapattinam district. The third respondent is the brother of the petitioner and 4th respondent is the son of the third

respondent. The third and fourth respondents were also living in the same village. According to the petitioner, there was a long standing enmity between the respondents 3 and 4 on one side and the detinue on the other side. It is further alleged that on 12.3.2016, when Mrs. Valli Murugan was taking rest in her house, the fourth respondent on inducement of the fifth respondent, who is the mother of the fourth respondent, entered into the house of Mrs. Valli Murugan and abducted her by force. The occurrence according to the petitioner was witnessed by the neighbours. In this regard, the petitioner lodged a complaint on 12.03.2016 on the file of the second respondent. He also made a representation to the District Collector, Nagapattinam on 13.03.2016. But, no steps were taken to secure Mrs. Valli Murugan. With this grievance, the petitioner alleging that Mrs. Valli Murugan was detained illegally, filed the present Habeas Corpus Petition.

2. This Habeas Corpus Petition originally came up for hearing before this Court on 23.6.2016. After having heard the learned counsel for the petitioner and after having perused the records, we recorded the following on 23.6.2016.

"The petitioner is the daughter of one Mrs. Vallimurugan aged 78 years. According to her, she is illegally detained by the respondents 3 to 5, who are the sons, grand sons and daughter-in-law of Mrs. Vallimurugan.

2. When it was pointed out by the learned counsel that the allegations appeared to indicate that she is happily living with her son, grand son and daughter-in-law, the learned counsel for the petitioner submitted that that due to property dispute, she is illegally detained by them. When we informed the learned counsel that in the event, we find that these allegations are false, this Court may have to impose heavy cost on the petitioner, the learned counsel for the petitioner submitted that in such an event, the petitioner would be prepared to pay Rs.50,000/- as cost. The learned counsel also wanted this Court to record this submission. Therefore, we are recording.

3. The second respondent shall produce the woman on 27.6.2016."

3. When this Habeas Corpus Petition came up for hearing before this Court on 27.6.2016, the Sub Inspector of Police, Keevalur Police Station, Nagapattinam District, made appearance.

She produced a statement recorded from Mrs. Valli Murugan on 20.03.2016. The Sub Inspector of Police submitted to this Court that she accompanied the Inspector of Police, when the Inspector of Police recorded the statement of Mrs. Valli Murugan on 20.03.2016. In the said statement, Mrs.Valli Murugan had stated that on her own volition, she was living with the third respondent, namely, her son very happily.

4. But the learned counsel appearing for the petitioner submitted that no weightage could be given to the said statement said to have been recorded from Mrs.Valli Murugan as the said statement could have been obtained by coercion and influence at the hands of the third respondent and his family members. But the Sub-Inspector of Police submitted that Mrs. Valli Murugan made the statement and that she was unable to undertake a long travel due to her old age and ill health. But the learned counsel insisted that this Court should issue a direction to the police to cause the appearance of Mrs.Valli Murugan before this Court. Considering the said request and considering the serious dispute raised by the learned counsel regarding the statement of Valli Murugan recorded by the Inspector of Police on 27.6.2016, while recording the day's proceeding finally, this Court issued the following direction.

"6. Therefore, we direct the Secretary, Legal Services Authority, Nagapattinam, to visit the house of the 3rd respondent, record the statement of the detainee Valli and if need be, the other family members and submit a report to this Court as to whether Valli is staying with the 3rd respondent on her own volition or she is forced to stay with him. It is clarified that at the time of recording the statement, if the petitioner wants to be present, she can be permitted. The said report shall reach this Court on or before 04.07.2016.

7. Post the matter on 05.07.2016."

5. When this Habeas Corpus Petition again came up for hearing on 05.07.2016, the Secretary, Legal Services Authority, Nagapattinam, had submitted his report at D.No.300/16 dated 30.06.2016 along with the submission of Mrs. Valli Murugan recorded by him. But on that date, neither the petitioner nor her counsel was present before this Court. With a view to afford further opportunity, this Court adjourned the Habeas Corpus Petition to 11.07.2016. On 11.07.2016, when the matter was again taken up, neither the petitioner nor her counsel made

appearance. With a view to afford yet another opportunity, the matter was ordered to be listed on 12.7.2016. When the matter again came up for hearing on 12.7.2016, neither the petitioner nor her counsel made appearance. Therefore, it was adjourned today to afford last chance to the petitioner. Today also, the petitioner as well as her counsel have not made appearance. Therefore, we are unable to hear the petitioner and her counsel.

6. We have heard the learned Additional Public Prosecutor. A perusal of the statement of Mrs. Valli Murugan recorded by the Secretary, District Legal Services Authority, Nagapattinam, would go to show that Mrs. Valli Murugan has been living very happily with her son, namely, the third respondent and there is no illegal detention. She has further stated that she would like to reside with the third respondent and his family members. She has further stated that she is unable to go to the Court because of her old age. The said statement is almost in consonance with the earlier statement recorded by the police. A perusal of this statement would make it clear that the petitioner has abused the process of this Court by filing the Habeas Corpus Petition. Virtually, the petitioner has wasted the precious time of this Court by filing this Habeas Corpus Petition by making false allegation that Mrs. Valli Murugan was abducted by the 4th respondent and illegally detained by the respondents 3 and 4. We have got every reason to hold that the petitioner was aware of the fact that Mrs. Valli Murugan is, after all residing with her son. To settle the personal vengeance, the petitioner has made this Court as a platform by filing this Habeas Corpus Petition. We are unable to grant the relief as prayed for.

7. While dismissing this petition, we are of the view that for having wasted the precious time of the Court by abusing the process of the Court, despite our warning on 23.5.2016, we are forced to impose cost of Rs.10,000/-. The petitioner shall pay the said cost to the Secretary, District Legal Services Authority, Nagapattinam, within a period of two weeks from today.

8. Post the matter for the petitioner to report the compliance of the same on 28.7.2016.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1. The Superintendent of Police,
Nagapattinam District.
2. The Inspector of Police,
Keevalur Police Station,
Nagapattinam District.
3. The Secretary,
District Legal Services Authority,
Nagapattinam.
4. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.J.Ponnudurai, Advocate, S.R.No.39825

H.C.P.No.1291 of 2016

RP(CO)
CA(25/07/2016)



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