

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.10.2016

CORAM

THE HONOURABLE MR.JUSTICE M.JAICHANDREN
and
THE HONOURABLE MR. JUSTICE S.BASKARAN

H.C.P.No.1418 of 2016

K.Vimal Kumar

... Petitioner

vs.

1.The Inspector of Police,
Mecheri Police Station,
Salem District.

2.Arun

3.The Superintendent of Police,
Salem District,
Salem

... Respondents

3rd respondent impleaded as per
order of this Court, dated 21.09.2016
in CrI.M.P.No.10007 of 2016
in H.C.P.No.1418 of 2016.

Prayer:- Habeas Corpus Petition filed under Article 226 of the
Constitution of India praying for the issuance of Writ of Habeas
Corpus directing the first respondent herein to produce the wife
of the petitioner, Kanimozhi, wife of K.Vimal Kumar, 19 years,
before this Court and set her at liberty forthwith.

For Petitioner : Mr.C.Prabakaran

For Respondents : Mr.V.M.R.Rajendren,
Addl. Public Prosecutor
for R1 & R3

O R D E R

(Order of the Court was made by M.JAICHANDREN, J.)

Heard the learned counsel appearing on behalf of the
petitioner as well as the learned Additional Public Prosecutor,
appearing on behalf of respondents 1 and 3.

2. This habeas corpus petition had been filed by the
husband of the detainee, namely, Kanimozhi, aged about 19 years,
praying, that this Court may be pleased to direct the respondents,
to produce the detainee before this Court and to set her at liberty.

3. It has been stated that the marriage between the petitioner and the detinue had taken place, on 26.5.2016, at Kaliyaperumal Temple, Taramangalam, as per the Hindu rites and customs. While so, the detinue, had left the matrimonial home, on 01.07.2016, and it had been suspected that the second respondent had abducted the detinue, against her will and is keeping her in illegal custody. Therefore, the petitioner had lodged a complaint before the first respondent police. The said complaint had been registered in Crime No.221 of 2016, on 01.07.2016, as a 'woman missing case.' However, as no further action had been taken, by the respondent police, the petitioner had preferred the present habeas corpus petition, before this Court.

4. A detailed status report has been filed on behalf of the first respondent, dated 5.8.2016, giving the necessary details of the action taken, by the respondent police, to trace the detinue. It had been stated that the second respondent had been arrested and kept in custody. Paragraph No.10 of the status report reads as follows:

" 10. I submit that so far the investigation reveals that the 2nd respondent original name is Arunpandian.

(i) Kanimozhi, the detinue after completing +2, she did not allow for higher studies by her parents and residing with her parents at Karuppanampatty, Omalur Police Station jurisdiction limit.

(ii) the detinue's father lodged complaint before the "Omalur Police Station" stated that her daughter/detinue was missing on 30.03.2016 at about 3.00 hours, based on the complaint a case was registered in Omalur P.S.Crime No.237/2016 under Section "Girl Missing" and on 30.03.2016.

(iii) On 01.04.2016, the detinue herself returned to her residence, while so, her parents were produced the detinue before the Omalur Police Station and the detinue gave a statement, wherein she has stated that the 2nd respondent took her forcibly from her house and went to Palani and got marry her and also stayed in a lodge therein and forcibly had sexual intercourse and thereafter stayed in his relatives house. Based on her statement, section was altered into "363, 366 I.P.C., r/w.9 of Prevention of Child Marriage Act 2006, r/w 5(i) of the Protection of Children from Sexual Offences Act, 2012 and thereafter the 2nd respondent was arrested and remanded on 02.04.2016.

(iv) On 05.04.2016, the detinue was produced before the learned Judicial Magistrate, (Fast Track Court), Omalur and recorded 164 Cr.P.C.statement.

(v) After completion of detailed and elaborated investigation, the investigation officer in Omalur P.S.Obtained legal opinion and approval and laid a

charge sheet on 04.06.2016, before the learned District Sessions Judge, Magila Court, Salem, vide S.C.No.56 of 2016 and the same was pending for trial. The next hearing date 19.08.2016 for produce of accused i.e. 2nd respondent/Arunpandian."

5. It is noted that the detenue, who is a major, has gone away with the second respondent, for the second time, on her own will. It is also noted that the second respondent had been arrested and appropriate legal action has been taken against him, as per law. In such circumstances, we do not find sufficient cause or reason to grant the relief sought by the petitioner. Accordingly, the habeas corpus petition stands closed. However, it goes without saying that the respondent police shall continue the investigation and take appropriate steps, in accordance with law.

Sd/-

Asst.Registrar (CS V)

/true copy/

Sub Asst. Registrar

msk

To

1.The Inspector of Police,
Mecheri Police Station,
Salem District.

2.The Superintendent of Police,
Salem District,
Salem

3.The Public Prosecutor
High Court, Madras.

सत्यमेव जयते

1 cc to M./s.C.Prabakaran, Advocate, Sr. 59473

WEB COPY H.C.P.No.1418/2016

RK (CO)
kk 15/11