

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 08.02.2016

CORAM

THE HONOURABLE MR.JUSTICE M.JAICHANDREN
AND
THE HONOURABLE MRS.JUSTICE S.NAGAMUTHU

H.C.P.No.196 of 2016

Salma .. Petitioner/Wife of the
detenue

Versus

1. The Commissioner of Police,
Vepery, Chennai 7.
2. The Inspectof of Police (L&O)
P-1, Puliyanthope Police Station,
Chennai 12.
3. K.Sarbuddin
4. S.Beenu

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying for a Writ of Habeas Corpus, directing the 2nd respondent to produce the body of the petitioner's husband N.Surbuddin, aged about 56 years before this Court and set him liberty according to his will.

For Petitioner : Ms.R.Vinu Priyanga

For Respondents : Mr.V.M.R.Rajendran
Additional Public Prosecutor (R1-2)

ORDER

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

This Habeas Corpus Petition has been filed to direct the 2nd respondent to produce the body of the petitioner's husband N.Surbuddin, aged about 56 years, before this Court and set him at liberty, according to his will.

2. The petitioner is the wife of one N.Surbuddin, S/o Nooruddin. According to the petitioner, her husband was missing from 03.10.2002 onwards. While he was with the petitioner, according to the petitioner, her husband had entered into a

lease agreement with one K.Sarbuddin for a sum of Rs.50,000/-. In the year 2007, there was a Civil Suit in respect of the same in O.S.No.104 of 2007, in which, an ex-parte decree was granted in favour of K.Sarbuddin. There was Rent Control Proceedings initiated in R.C.O.P.No.2733 of 2008 at the instance of the petitioner. In that, a stand was taken by Mr.K.Sarbuddin, that the husband of the petitioner was alive. Thereafter, the petitioner made a complaint to the police, on 06.02.2007, alleging that her husband was found missing. A case was registered in respect of the same in Crime No.112 of 2007 for "man-missing". Thereafter, yet another suit came to be filed in O.S.No.2388 of 2010 to evict K.Sarbuddin. That suit has also been disposed of. In those circumstances, now, after 14 years of the alleged missing of her husband and at least after 9 years of the registration of the case in Crime No.112 of 2007, the petitioner has come up with this petition under Article 226 of the Constitution of India for the production of her husband N.Sarbuddin.

3. This Habeas Corpus Petition has come up for admission today.

4. We have heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for respondents 1 to 3 and we have perused the materials available on record carefully.

5. In our considered view, this petition is a clear abuse of process of Court, wasting the valuable judicial time of this Court. Though it is alleged that the petitioner's husband was found missing from the year 2002, complaint was made in this regard only in the year 2007, i.e., after 5 years. This Habeas Corpus Petition has been filed after about 14 years from the date of missing of her husband and 9 years after the registration of the case. It appears that the petitioner wants to create some record from this Court, so as to have an effective contest in the civil litigation. No party can be allowed to abuse the process of this Court by filing unscrupulous petition of this nature. We are not inclined to entertain this petition at all. Therefore, while dismissing this petition, we find no option, but to impose some cost upon the petitioner.

6. In the result, this Habeas Corpus Petition is dismissed with a cost of Rs.5,000/- (Rupees five thousand only) to be paid by the petitioner to the Tamil Nadu Mediation and Conciliation Centre, attached to this Court. The said cost shall be paid within a period of four weeks from today.

Post the matter on 08.03.2016 for reporting compliance.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1. The Commissioner of Police,
Vepery, Chennai 7.
2. The Inspector of Police (L&O)
P-1, Puliyanthope Police Station,
Chennai 12.
3. The Public Prosecutor
High Court, Madras
4. The Assistant Registrar
Tamil Nadu Mediation and
Conciliation Centre, attached to
High Court, Madras

+1 cc to M/s.R.Vinu Priyanga Advocate sr.8277

H.C.P.No.196 of 2016

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