

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.12.2016

CORAM

THE HON'BLE MR JUSTICE M.JAICHANDREN
AND
THE HON'BLE MR JUSTICE S.BASKARN

Habeas Corpus Petition No.2095 of 2016

S.Amutha

..Petitioner

Vs.

1.The Correspondents/Managers

SRM Muthamizh Matriculation Hr.Sec.School,
Near V.Koot Road, Periar, Aattupannai (Post)
Athur Taluk, Salem District-636 112

2.The Station House Officer

Marina D5 Police Station
Mylapore District, Chennai

3.N.Vetrivel

..Respondents

Prayer: Writ of Habeas Corpus Petition filed under Article 226 of the Constitution of India, directing the 2nd respondent to produce the corpus of minor Sivaganapathy, S/o.Sivagurunathan, residing at No.57, Kaideh Millath Street, Virudhachalam Post & Taluk, Cuddalore District before this Court.

For petitioner : Mr.A.K.Velan

For respondents : Mr.V.M.R.Rajentren

Addl.Public Prosecutor for R2

Mr.R.Kannadasan for R1

Mr.V.Parthiban for 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, the learned Additional Public Prosecutor, appearing on behalf of the 2nd respondent-Police, as well as learned counsels, appearing on behalf of respondents 1 and 3.

2. This Habeas Corpus Petition has been filed, praying that this court may be pleased to direct the 2nd respondent to produce the minor son of the petitioner viz., Sivaganapathy, aged about 17 years, before this court and to pass further orders, as may found to be fit and necessary. The petitioner has stated that the 1st respondent School had taken the son of the petitioner, along with 22 other students to the "Global Educational Fair", at Chennai, on 06.08.2016. The students had been accompanied by the 3rd respondent, who is an English Teacher, in the 1st respondent school. When the students had been taken to the Marina Beach, Sivaganapathy, son of the petitioner, had gone missing and it is believed that he had drowned in the sea. Therefore, the petitioner had lodged a complaint, before the 2nd respondent, and a First Information Report (FIR) had been registered. As no effective steps had been taken by the 2nd respondent, to trace the detenu, the petitioner is before this court, with the present Habes Corpus Petition.

3. Counter affidavits have been filed on behalf of the 1st and the 3rd respondents herein stating that the students of the 1st respondent school had been taken to attend an Education Fair viz., "Global Educational Fair", conducted by Sri Rajaji Vidhyashram, Kilapuk, Chennai. Thereafter, the son of the petitioner, namely, Sivaganapathy and 21 other students had gone to the Marina Beach. There was a heavy crowd at the Beach, as it was a saturday. During the evening hours, on 06.08.2016, some of the students had gone into the sea to take bath. Unfortunately, 4 of the students were swept away by the waves. While 3 of the students had been rescued by the coast guards, the detenu could not be found. Therefore, a complaint had been registered before the 2nd respondent, on 06.08.2016, at about 6.30 p.m. The said complaint had been registered in crime No.1037 of 2016, as a "boy missing case". It has been stated that inspite of the warning given by the school authorities, the students had gone into the sea to take bath. Unfortunately, the detenu had gone missing and he could not be found, till date.

4. Pursuant to the direction issued, a detailed status report, dated 01.12.2016, has been filed by one K.Mohandoss, Inspector of Police, D-5 Marina Police Station, Chennai, giving the details of the steps taken to prevent unfortunate accidents from taking place, when people go into the sea, without taking sufficient precautions about their safety. The status report reads as follows:-

"I. The respondent police regularly deploying enough police personnel from 06.00 Hrs to 21.00 Hrs to watch cautioned the public in the Sea Shore Area to prevent the people not to go into the Sea for Swim/Bath.

II. Two Beach Buggy Vehicles viz., (All Terrain Vehicles-ATV) with two police personnel each have been permanently deployed in the Sea Shore, i.e., D5, Marina Police Station Limit, which is roaming from Light House Back Side Sand Area and to the extent of Kannagi Statue continuously (about 2.5 Km) and watching the public and also prevent them not to enter into the Sea.

III. Six Horses with police personnel (Mounted Branch) are also regularly deployed during morning and evening sessions, i.e. Peak Hours in the Sea Shore, i.e. D5-Marina Police Station Limit, which is roaming from Light House Back Side Sand Area and to the extent of Kannagi Statue continuously and watching the public and also prevent them not enter into the Sea.

IV. Apart from the above Coastal Security Group personnel attached to Tamilnadu police are also not only deployed along the Sea Shore area but also through the ATV Vehicles the police personnel watching in the sea shore Area in the respondent police station limit to prevent the general public not to enter into the Sea.

V. Further every 50 Meters distance in the Sea Shore, Notice boards in a big size, displaying about the caution Viz., "Dangerous Sea Zone-Prohibited to take bath" both English and in Tamil Version in Bold letters so as to prevent the public not to enter into Sea. Apart from the above, notice boards containing the cautionary words have also installed in the service road adjacent to the entering path of the Sea Shore, so as to caution the public not to enter into the Sea to take Bath.

VI. Further every 50 Meters distance in the Sea shore, apart from the Notice boards Barry guards have placed in the Sea shore area displaying about the caution viz., "Dangerous and Banned to take bath in this area" both in English the in Tamil Version in Bold letters so as to prevent the public not to enter into Sea.

VII. Further in the Way of the Sea shore one police Booth provided at near "Gandhi Statue" with police personnel and also with public addressing systems are situated through which general public while enterint into the sea shore are cautioned that not to go into the sea.

VIII. Further Tamil Nadu State Government provided One 108 Beach Ambulance and also Provided One Mobile ambulance (Two Wheeler) for victims of drowning accidents, dehydration and fainting, abdomen and gastric ailments, and even trauma cases can be accessed far more easily with an ambulance on the sands, and a four-wheeler drive ambulance from the '108' service promises

to pick up the victims from the shoreline, cutting time and saving lives.

IX. During the public holidays and weekend days and also during festival holidays like Pongal/Deepavali/New Year etc., Anticipating huge gathering of the general public in the sea shore area, additional strength of police personnel both from other police station in the city and also from armed reserve force are also deployed to maintain the smooth law and order, to prevent crime and also to take the preventive steps to caution the public not to enter into the Sea to take Bath. In addition, additional strength of police personnel of mounted branch further temporary watch tower provided with police personnel public addressing system and Binoculars to watch caution the Gathered public in the sea shore area to prevent crime and also to take the preventive steps to caution the public not to enter into the Sea to take bath, rescue team with life Jackets are also deployed in the sea shore to rescue the affected victims, if situation arise. "

5. In view of the status report filed by the Inspector of Police, B5 Marina Police Station and in view of the submissions made by the learned Additional Public Prosecutor, appearing on behalf of the 2nd respondent, we are of the considered view that no further orders are necessary in the present H.C.P. Hence, the Habeas Corpus Petition stands closed. However, the 2nd respondent/Police shall continue the investigation, if found necessary, to trace the detenu, based on the FIR registered, in Crime No.1037 of 2016, with regard to " boy missing case" and to take necessary steps, in accordance with law.

6. The learned Additional Public Prosecutor, appearing on behalf of the official respondents has submitted that, as and when fresh information is obtained, with regard to the detenu, the same would be communicated to the petitioner, forthwith.

7. Inspite of the preventive steps being taken by the 2nd respondent police to prevent accidents happening on the beaches of Chennai city, by drowning, we are of the view that the authorities concerned may take further steps, as they may think fit and proper, to prevent such accidents from taking place in future. The authorities may take into consideration some of the best practices being followed by other countries, in this regard.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

nvsri

To

1.The Station House Officer
Marina D5 Police Station
Mylapore District, Chennai

2.The Public Prosecutor, High Court, Madras.

1 cc to M/s.V.Paarthiban, Advocate SR.No.70942

H.C.P.No.2095 of 2016

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