

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.11.2016

CORAM

THE HON'BLE MR.JUSTICE M.JAICHANDREN
and
THE HON'BLE MR.JUSTICE S.BASKARAN

H.C.P.No.2430 of 2016

L.N.Rahmathnissa

... Petitioner/Daughter
of the Detenue

Vs

1. State,
The Commissioner of Poolice,
Greater Chennai,
Vepery,
Chennai-600 007.

2. State,
The Deputy Commissioner of Police,
Triplicane,
Chennai.

3. State
The Inspector of Police,
D4, Zam Bazaar Police Station,
Chennai-600 005.

4.L.N.Khaja Mohideen

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS, pertaining to the illegal custody or illegal detention of the detenue L.S.Ashrafnissa, aged about 85 years, wife of late L.K.Nagoor Meeran and consequently direct the respondents to produce the detenue before this Court and set her at liberty.

For Petitioner : Mr.K.S.Kaviarasu

For Respondents : Mr.V.M.R.Rajentran,
Additional Public Prosecutor
for RR1 to 3

Mr.C.Girish Babu for R-4

ORDER

[Order of the Court was made by S.BASKARAN, J.]

This Habeas Corpus Petition has been filed by the petitioner, praying for the issuance of a Writ of Habeas Corpus, directing the respondents to produce the detinue L.S.Ashrafnissa, aged about 85 years, wife of Late L.K.Nagoor Meeran, before this Court and set her liberty.

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

3. The petitioner, who is the daughter of the detinue L.S.Ashrafnissa, states that her mother L.S.Ashrafnissa, aged about 85 years, is under the illegal custody of her brother, the fourth respondent herein. The petitioner states that after her father had died, in the year 2004, her mother has been taken care of by all her brothers and sisters, including the petitioner, periodically. It has been further stated that there was some property settlement dispute and the fourth respondent was quarreling with the detinue regarding the property settlement. The petitioner further states that the fourth respondent had attacked the detinue on one occasion and hence, the detinue had given a complaint to the third respondent. It has been further stated that another complaint was given by the detinue to the Assistant Commissioner of Police, Triplicane, on 12.9.2015, regarding the illegalities of the fourth respondent. Thereafter, the detinue was living with the petitioner. It has been further stated that on 15.7.2016, the fourth respondent came to the residence of the petitioner and took away the detinue, forcefully, against her wish. As they could not see the detinue, thereafter, the petitioner had lodged a complaint with the first respondent. But, no action had been taken. Hence, the present Habeas Corpus Petition has been preferred.

4. When the matter was taken up today, the detinue was produced before the Court. On enquiry, she had categorically stated that she is now living with her son, the fourth respondent herein and she wants to live with him only. When the petitioner sought permission to talk to the detinue, independently, for some time, the detinue was not willing for the same and had stated that she was harassed only by the petitioner herein. For her age, the detinue was clear and categorical in her thinking and expression and had vehemently stated that she does not want to go along with the petitioner, as she was ill-treated by her.

5. Considering the submissions made by the detenue and considering the circumstances and the fact that the detenue is very clear and conscious in her mind about living with her son, the fourth respondent herein, the court is of the view that the claim of the petitioner cannot be entertained. As such, the detenue L.S.Ashrafnissa is set at liberty to go, as per her wish, along with the fourth respondent herein. No further orders are necessary in the Habeas Corpus Petition. Accordingly, the Habeas Corpus Petition stands dismissed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

vvk

To

1. The Commissioner of Poolice,
Greater Chennai,
Vepery,
Chennai-600 007.
2. The Deputy Commissioner of Police,
Triplicane,
Chennai.
3. The Inspector of Police,
D4, Zam Bazaar Police Station,
Chennai-600 005.
4. The Public Prosecutor,
High Court, Madras.

+lcc to Mr.C.Girish Babu, Advocate, S.R.No.66326

H.C.P.No.2430 of 2016

CA(CO)
CA(19/12/2016)