

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.11.2016

CORAM

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

H.C.P.NO.2444 OF 2016

K.Raju .. Petitioner

Vs.

1.The State Rep. By
The Inspector of Police (L&O)
Erode North P.S.
Erode - 638 004.

2.Isbhani
3.Binni .. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS, against the respondent no.1 and direct the first respondent to produce the body of the petitioner's daughter Selvi R.Maheshwari, aged about 25 years old alive or dead before this Court from the illegal and unlawful custody of the second respondent on the basis of the petitioner's complaint dated 02.11.2016 made to the first respondent by person and also by R.P.A.D.

For Petitioner : Mr.R.Krishnamurthy
For Respondent-1 : Mr.V.M.R.Rajentren
Additional Public Prosecutor
For Respondent-3 : Mr.G.Deepan

O R D E R

[ORDER OF THE COURT WAS MADE BY S.BASKARAN, J.]

This Habeas Corpus Petition has been filed by the father of the detainee namely R.Maheshwari, aged 25 years, seeking for a direction to the first respondent police to produce the body of his daughter Selvi R.Maheshwari, aged about 25 years old alive or dead before this Court from the illegal and unlawful custody of the second respondent on the basis of his complaint dated 02.11.2016 made to the first respondent by person and also by R.P.A.D.

2. The petitioner, who is the father of the detainee, has come forward with this petition stating that his daughter R.Maheshwari was found missing from his house from 11.10.2016. Therefore, he lodged a complaint to the first respondent police. Since the first respondent police failed to register any case till 16.10.2016, he has approached this Court by filing the present Habeas Corpus Petition.

3. According to the petitioner, the second respondent has fraudulently induced her daughter / detainee, to go along with him. It is further stated that the second respondent has already married the third respondent and the third respondent also has lodged a complaint against the second respondent and the same is pending. It is stated by the petitioner that the life of her daughter / detainee is in danger and she is being taken care by the second respondent, who is of a doubtful character. Hence, the petitioner seeks to secure her daughter and to be produced before this Court.

4. Today when the matter is taken up, the detainee is produced by the first respondent police. The learned counsel for the third respondent as well as the third respondent are present before this Court.

5. We have heard the submissions made by the learned counsel appearing on behalf of the petitioner, learned counsel for the third respondent and the learned Additional Public Prosecutor appearing for the State and we have also perused the records carefully.

6. The learned counsel for the petitioner expressed fear over the safety of his daughter and also seek direction to send the detainee for medical examination to ascertain about her mental status.

7. The learned counsel for the third respondent contended that the third respondent has already married the second respondent and suppressing the same, now the second respondent claims to have married the detainee and the same is illegal. In respect of the same, the third respondent claims that she has already lodged a complaint with the first respondent police and she also sought for a direction to take action against the second respondent.

8. On enquiry, the detainee is stated to be 25 years old and she categorically states that she married the second respondent and living with him only. However, no proof of her marriage is placed before this Court. The detainee further stated that the third respondent is only a friend of the second respondent. The detainee expressed her unwillingness to go along with her father, who is the petitioner herein and she repeatedly

stated that she is safe and comfortable with the second respondent and wants to go along with him only.

9. In such circumstances, taking into consideration that the detainee is a major and expressed her desire to go along with the second respondent, whom she claims to have married, she is permitted to go as per her wish. Therefore, we are of the view that no further order is necessary in this petition.

10. Further, as rightly pointed out by the learned counsel appearing on behalf of the petitioner, the issue before this Court is relating to the detainee alone. In such circumstances, it is open to the first respondent to take whatever action against the second respondent, as per law, if any complaint is lodged by the third respondent, as claimed by her.

11. The learned counsel for the petitioner expressed apprehension over the safety of the detainee. The first respondent police is directed to give her protection, if necessary, on request if any, made by her in writing. The petitioner is at liberty to work out his remedy, if any, before the appropriate forum, in the manner known to law.

12. The Habeas Corpus petition is closed with the above observation.

Sd/-
Asst.Registrar (CS V.)

/true copy/

Sub Asst. Registrar

To

1.The Inspector of Police (L&O)
Erode North P.S.
Erode - 638 004.

2.The Public Prosecutor
High Court of Madras.

+1 cc to M/s.R.Krishnamoorthy,advocate,sr.67468

+1 cc to M/s.G.Deepan,advocate,sr.67469.

mp(co)
krd 26/12

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