

In the High Court of Judicature at Madras

Dated: 22.03.2016

Coram:

THE HONOURABLE MR.JUSTICE S.NAGAMUTHU
and
THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

H.C.P.No.406 of 2016

Asuvathamam

.. Petitioner

vs.

1.State,rep.by its
The Inspector of Police,
Teynampet,
Chennai-600 018

2.Mivannan
Chairman,
Little Bird Matriculation School,
Karikkadu, Pattukottai,
Tanjore District.

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of habeas corpus to direct the first respondent to produce the detainee/the petitioners wife Durkha and the petitioners eight months old male child, Aagaman, before this Court, whose whereabouts are not known and set them free to move at their liberty.

For Petitioner .. Mr.V.Selvaraju, Senior counsel
for Mr.V.Balamurugane

For Respondents .. Mr.V.M.R.Rajendran,
Additional Public Prosecutor
for R1
S.Kasirajan for R2

O R D E R

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

The petitioner is the husband of one Mrs.Durga. They got a child also. According to the petitioner, on 14.2.2016, the second respondent, who is the father of his wife, came to

his house and forcibly took his wife and he has been detaining her along with the child. His complaint to the police has not revoked any response and therefore, he has come up with this habeas corpus petition.

2. We have heard the learned Senior counsel for the petitioner, the learned Additional Public Prosecutor appearing for the State and the learned counsel appearing for the second respondent and we have also perused the records carefully.

3. The learned Additional Public Prosecutor, on instructions, from the first respondent would submit that there is no illegal detention at all in this matter. According to the investigation, the wife of the petitioner has already made a complaint to the All women Police Station, Pattukottai, alleging dowry harassment and she has also filed a case, seeking divorce, on the file of the Sub Court, Pattukottai. The learned counsel appearing for the second respondent has not disputed the said facts.

4. From the narration of above facts, it is crystal clear that the dispute between the petitioner and his wife is purely matrimonial in nature, which cannot be resolved in a habeas corpus proceedings.

5. The learned Senior counsel for the petitioner would submit that the wife of the petitioner may be directed to appear before this Court and make a statement. In our considered view, it is not required at all, as the fact remains that the petitioner's wife has already moved a petition for divorce, before the Sub Court, Poonamallee. If the petitioner is entitled for any remedy, he can very well work out the same either in the Sub Court, Poonamallee, or elsewhere. Accordingly, the habeas corpus petition is dismissed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

mks

To

1.The Inspector of Police,
Teynampet,
Chennai-600 018.

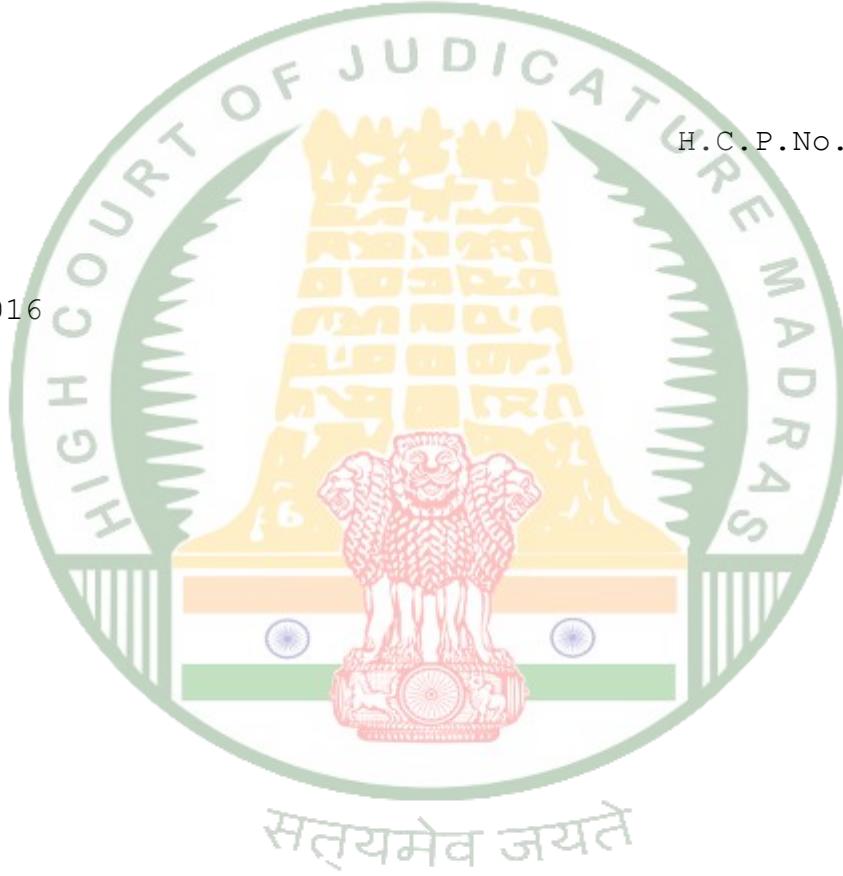
2.The Public Prosecutor,
High Court, Madras.

+1 cc to Mr.B.Balavijayan Advocate sr.18483

+1 cc to Mr.S.Kasirajan Advocate sr.18129

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