

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 10.03.2016

Coram:

THE HONOURABLE MR.JUSTICE M.JAICHANDREN

and

THE HONOURABLE MR.JUSTICE S.NAGAMUTHU

H.C.P.No.436 of 2016

E.Malayandi

Petitioner/Husband of
Dependent

vs.

1.The Superintendent of Police,
O/o Superintendent of Police,
Thiruvannamalai District,
Thiruvannamalai.

2.The Deputy Superintendent of Police,
O/o Superintendent of Police,
Thiruvannamalai District,
Thiruvannamalai.

3.The Inspector of Police,
Keel Kodunkalur Police Station,
Keel Kodunkalur,
Thiruvannamalai District.

4.Mrs.Kuppammal

5.Mr.R.Perumal

6.Mrs.Kumari

7.Mrs.Sumathi

8.Mrs.Jothi

9.Mrs.P.Jeyachitra

..... Respondents

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Prayer : Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of habeas corpus directing the respondents 1 to 3 to produce the body of the petitioner wife namely Jayakodi, aged 35 years, W/o Malayandi from the illegal custody of the fifth respondent before this Court and hand over her custody.

For Petitioner .. Mr.M.Muthukannan

For Respondents .. Mr.V.M.R.Rajentren,
Additional Public Prosecutor

O R D E R

(The order of the Court was made by M.JAICHANDREN.,J)

This Habeas Corpus Petition has been filed, praying that this Court may be pleased to direct the respondents 1 to 3, to produce the body of the petitioner's wife, namely, Jayakodi, aged 35 years, W/o Malayandi, from the illegal custody of the fifth respondent, before this Court and to hand over her custody to the petitioner.

2.The petitioner has stated that he had married the detinue, on 15.09.2005. While they were living together, she had gone missing, on 11.05.2014. The Police had informed that they had found the dead body of the petitioner's wife. However, on verification, it was suspected by the petitioner that the dead body was that of the petitioner's wife's sister, who was mentally ill. Under such circumstances, the petitioner made a complaint to the third respondent, however, the same had not been received by the third respondent. Further, the petitioner had been threatened by the Police to withdraw his complaint.

3.The learned counsel for the petitioner would further submit that his wife had been kidnapped by the fifth respondent, with the help of respondents 4 and 6 to 9. He had learnt that his wife was still alive and she was in the custody of the sixth respondent. On knowing that his wife was alive, the petitioner had preferred another complaint, to the third respondent, on 19.05.2014. Even though, the complaint had been given a C.S.R., number, the third respondent had refused to register the F.I.R. Hence, the petitioner had preferred a representation to the respondents 1 and 2, requesting them to direct the third respondent to register the complaint lodged by the petitioner and to investigate the matter, to rescue his wife from the illegal custody of the six respondent. Since, no further steps have been taken by the Police, the petitioner has preferred the present Habeas Corpus Petition.

4.The learned Additional Public Prosecutor appearing on behalf of the respondents 1 to 3 had submitted, on instructions, that the petitioner was an accused in a murder case, for having murdered a boy, aged about 7 years, and he had been arrested and he is now on bail. Further, the representations made by the petitioner had been acted upon and necessary steps have also been taken, by the respondent police. According to him, the allegations made by the petitioner in this Habeas Corpus Petition are totally false and therefore, the present petition may be dismissed, with cost.

5.In view of the submissions made by the learned counsel appearing on behalf of the petitioner, as well as the learned Additional Public Prosecutor appearing on behalf of the respondents 1 and 2, and on a perusal of the records available, we find that the petitioner had made a complaint, on 30.07.2014, before the Superintendent of Police, Vandavasi, Thiruvannamalai District, stating that six persons were involved in the murder of his wife, the detinue herein. Enquiries have been conducted and the petitioner had also given an opportunity, to present his case. It is noted that the criminal case is pending against the petitioner, for the alleged murder of a 7 year old boy.

6.In view of such circumstances, keeping in mind the conduct of the petitioner, we are of the view that the petitioner has filed the present Habeas Corpus Petition, making false allegations, as alleged by the learned Additional Public Prosecutor appearing on behalf of the respondents 1 to 3. Even though, necessary steps have been taken by the respondents 1 to 3, based on the complaints lodged by the petitioner, he has preferred the present Habeas Corpus Petition, praying that this Court may be pleased to direct the respondents 1 to 3 to produce the detinue, namely, Jayakodi, the wife of the petitioner, before this Court and to hand over the custody of the detinue, to the petitioner. In such circumstances, we find that the present Habeas Corpus Petition deserves to be dismissed, with cost.

7.At this juncture, it is represented by the learned counsel appearing on behalf of the petitioner that he has been appointed by the Legal Services Authority to represent the petitioner in this case. In such circumstances, even though, we had intended to impose exemplary cost, on the petitioner, for having filed this vexatious petition, it has been brought to our notice that the matter has been referred to the learned counsel, appearing on behalf of the petitioner, by the High Court Legal Services Committee, by its communication, dated 06.11.2014. Hence, we are not imposing cost on the petitioner. We are also concerned about the inordinate delay in the filing of the present Habeas Corpus Petition, as the matter had been referred to the learned counsel for the petitioner, on 06.11.2014. It is

not known as to why the High Court Legal Services Authority had not taken note of the fact that the Habeas Corpus Petition has not been filed, before this Court, promptly. In such view of the matter, we are inclined to dismiss this petition.

5.In the result, this Habeas Corpus Petition is dismissed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

jbm

To

1.The Superintendent of Police,
O/o Superintendent of Police,
Thiruvannamalai District,
Thiruvannamalai.

2.The Deputy Superintendent of Police,
O/o Superintendent of Police,
Thiruvannamalai District,
Thiruvannamalai.

3.The Inspector of Police,
Keel Kodunkalur Police Station,
Keel Kodunkalur,
Thiruvannamalai District.

4.The Public Prosecutor,
High Court, Madras.

+1 cc to Mr.Muthukannan Advocate sr.15395/16

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