

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.04.2016

Coram:

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

H.C.P.No.626 of 2016

S.Rajamani .. Petitioner /Mother of the Detenu
vs.

1. The Inspector of Police
Bhavanisagar Police Station
Erode District.

2. Kumaresan .. Respondents

Habeas Corpus Petition has been filed under Article 226 of the Constitution of India for a Writ of Habeas Corpus, directing the 1st respondent police to produce the body of the petitioner's daughter, namely, Suganya, aged 21 years, before this Court and to set her at liberty.

For petitioner :Mr.A.Thamilrajan

For respondents :Mr.V.M.R.Rajentren
Addl. Public Prosecutor for R.1

O R D E R

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

This Habeas Corpus Petition has been filed, by the mother of the detainee, praying that this Court may be pleased to issue a Writ of Habeas Corpus, to direct the 1st respondent police to produce the petitioner's daughter, namely, Suganya, aged about 21 years, before this Court and to set her at liberty.

2. The petitioner has stated that, the detainee, who is the younger daughter of the petitioner, had gone missing from her house, on 08.03.2016. She has further stated that, the 2nd respondent has been keeping the detainee in illegal custody. Therefore, the petitioner had lodged a complaint before the 1st respondent police, on 11.03.2016, and the said complaint had been given C.S.R.No.15/2016. Thereafter, a case had been

registered as a "Girl Missing" case, in Crime No.72 of 2016. Since, no effective steps have been taken by the 1st respondent police, to trace the detainee, the petitioner has preferred the present Habeas Corpus Petition, before this Court.

3. Mr.V.M.R.Rajentren, the learned Additional Public Prosecutor, appearing on behalf of the 1st respondent, had submitted, on instructions, that the 1st respondent police would take all necessary steps to trace the detainee, viz., Suganya, based on the complaint lodged by the petitioner, on 11.03.2016.

4. Today, when the matter had been listed for hearing, the 1st respondent police, has produced the detainee before this Court. The petitioner, who is the mother of the detainee, is also present. On enquiry, the detainee, namely, Suganya, had stated that her date of birth is 28.02.1998 and she had studied upto Xth standard. She had further stated that she had married the 2nd respondent, on 18.03.2016, at the Baladhandayuthapani Temple, at Palani. She has also placed before this Court, the Marriage Agreement, dated 23.03.2016, notarised by a Notary, in support of her submission. She had further stated that she would like to go along with the 2nd respondent, who is said to be her husband. As the detainee, namely, Suganya, is a major, we permit her to go along with the 2nd respondent, as per her wish.

5. In such circumstances, we find it appropriate to close the Habeas Corpus Petition, as no further orders are necessary in the Habeas Corpus Petition. Hence, the present Habeas Corpus Petition stands closed.

6. It is noted from the Marriage Agreement, dated 23.03.2016, produced before this Court, the 2nd respondent and the detainee are the signatories to the same. A reading of the same would go to show that this is nothing but an agreement relating to marriage. The same had been attested, by one Mr.M.K.Shivakumar, B.Sc., B.L., M.L., Advocate & Notary Public (Government of India), Commissioner of Oaths, Udumalpet, Tirupur District. A Division Bench of this Court had already declared that such practice of notaries to perform marriages and to attest the agreement for marriage should not be resorted to, as such agreement is not valid in law.

7. It is not known as to how Mr.M.K.Shivakumar had attested this document. A Notary is a responsible officer, who is so appointed by the Government, in consultation with the High Court. Therefore, the registry is directed to call for an explanation from Mr.M.K.Shivakumar, Advocate & Notary Public, as

to why this Court should not take action against him for the withdrawal of his appointment as a Notary under the Notaries Act. Post the matter on 22.04.2016, for reporting compliance.

paa

-s/d-

Assistant Registrar(CS-IV)

True Copy

Sub-Assistant Registrar

To

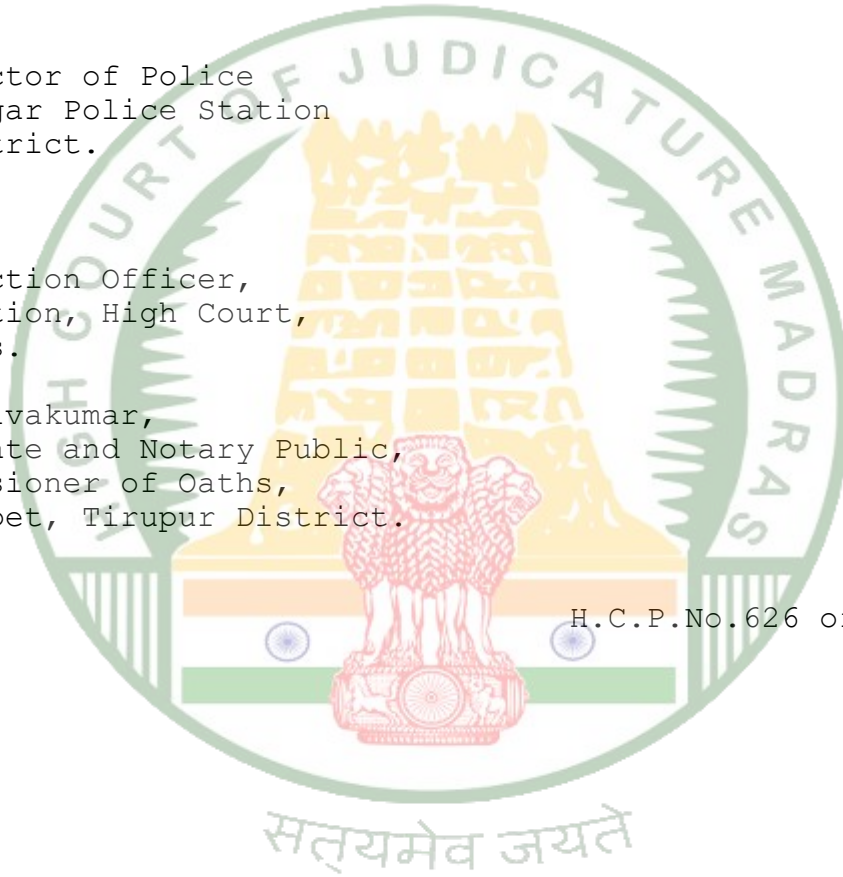
The Inspector of Police
Bhavanisagar Police Station
Erode District.

Copy to:

1. The Section Officer,
F Section, High Court,
Madras.
2. M.K.Shivakumar,
Advocate and Notary Public,
Commissioner of Oaths,
Udumalpet, Tirupur District.

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