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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.01.2016

CORAM:

THE HONOURABLE MR.JUSTICE P.R.SHIVAKUMAR

and

THE HONOURABLE MR.JUSTICE V.S.RAVI

H.C.P(MD)No.1696 of 2015

M.Praveen Kumar

.. Petitioner

Vs.

1. The State rep.by
Inspector of Police,
All women Police Station,
Pattukottai, Tanjore District,
CSR No.178/2015.

2. The Deputy Superintendent of Police,
Tanjore.

3. Sundaramoorthy

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, to direct the respondents herein to produce the person or body of the detenu S.Surya daughter of Sundaramoorthy aged about 24 years and set her at liberty.

For Petitioner

: Mr.S.Manikandan

For RR - 1 & 2

: Mr.R.Ramachandran

Additional Public Prosecutor

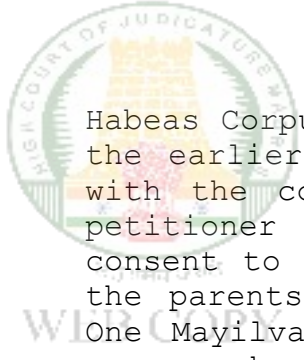
For R - 3

: Mr.S.Deenadhayalan

O R D E R

[Order of the Court was made by **P.R.SHIVAKUMAR**]

On 16.12.2015, when the alleged detenu Surya was present in this Court along with her parents Sundaramoorthy and Vasuki, she stated that she and the petitioner Preveen Kumar loved each other and they got married on 02.01.2014 without the consent of their respective parents. She also stated at that time, that after marriage, with the hope of convincing her parents to recognise their marriage and allow her to live with the petitioner with their consent, she went to her parental home and was residing with them; that to her shock and surprise, when she came to know the fact that they arranged for her betrothal with another person, she left her parental home, met the petitioner and along with him, went to Pattukottai Police Station seeking police protection; that on the invitation of the police, her parents came there; that, as she refused to go with the parents despite the advise tendered by the police, she was sent to the home, where she was kept for five days and that after five days, with the fond hope of convincing her parents, she went along with them. It was her further statement that under the said circumstances, the



Habeas Corpus Petition came to be filed and that she made her decision on the earlier occasion to be with her parents and to join the petitioner with the consent of her parents. At that juncture, the father of the petitioner who was present along with the petitioner, expressed his consent to recognise the marriage of Surya with the petitioner. However, the parents of Surya were not prepared to recognise the said marriage. One Mayilvahanan, the maternal uncle of Surya was also present. Surya expressed confidence in him and submitted that he knew everything and that, he was the person who could convince her parents and arrange for her marriage with the petitioner. The said Mayilvahanan also assured to consult the relatives and convince the parents of Surya. Pursuant to the same, we directed listing of the matter today with the further direction for the appearance of the petitioner, Surya and her parents.

2.Today, the parents of Surya along with the sister of the mother of Surya are present. Surya has accompanied them to this Court. The petitioner is present along with his father.

3.The petitioner and third respondent are represented by their respective counsel. The police are represented by Mr.R.Ramachandran, learned Additional Public Prosecutor. Curiously, Mr.Mayilvahanan, the maternal uncle of Surya is not present.

4.On being questioned, Surya states that the efforts taken by her maternal uncle Mayilvahanan did not bear any fruit and that, her hopes came to be shattered as her parents are adamant in their stand. It is her further statement that having studied their mind set for the past one month, she has now taken a decision not to be with her parents and to go and join the petitioner. It is her further statement that, being a major and having married the petitioner on 02.01.2014 at Kundrathoor Murugan Temple, her liberty to go with the petitioner should be ensured. However, we do not find any clinching record, excepting a couple of photograph, in which both the petitioner and Surya are seen with shoulders abreast to show that a valid marriage took place. Surya submits that their marriage took place at Kundrathoor Murugan Temple in the presence of their friends. Admittedly, the marriage was not registered. No receipt for having conducted the marriage at Kundrathoor Temple obtained from the temple authorities came to be produced. As such we cannot take a decision as to whether there was a marriage and if at all there was a marriage, whether it is valid. However, Surya submits that if any irregularity is found in their marriage, they will arrange for rectification of the same and proper registration of the marriage under the Tamil Nadu Marriage Registration Act, 2009.

5.As Surya asserts her stand that the petitioner is her husband and she wants to go with him, we cannot take any decision which will affect her right as an adult person to take her own decision. She is not either projected to be nor found to be a person legally incapable of taking her own decision. Hence, without expressing any opinion regarding the truth or otherwise of her contention that she married the petitioner and without expressing any opinion regarding the validity or otherwise of the marriage, we do hereby allow her to go anywhere with anyone as she pleases without her liberty being hindered by anyone, including her parents. As she has expressed her desire to go with the petitioner, if they seek protection, police shall give them protection.



6. With the above observations, the Habeas Corpus Petition is disposed of.

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/True copy/

Sd/-
Assistant Registrar (T&P)

Sub Assistant Registrar

To

1. The Inspector of Police,
All women Police Station,
Pattukottai,
Tanjore District.
2. The Deputy Superintendent of Police,
Tanjore.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

H.C.P (MD) No.1696 of 2015
20.01.2016

+1 CC to Mr.S.MANIKANDAN, Advocate, SR No.3218

mj
SH/SKS-RR:01.02.2016:3P/5C