



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.08.2016

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR.JUSTICE B.GOKULDAS

H.C.P (MD) No.588 of 2016

Vijayakumari

... Petitioner

Vs.

1.The Commissioner of Police,
Madurai City, Madurai.

2.The Inspector of Police,
Sellur Police Station,
Madurai.

3.The Inspector of Police,
Economic Offences Wing,
Tirunelveli.

[R-3 impleaded suo motu as per
order dated 02.06.2016 in
H.C.P. (MD) .No.588 of 2016]

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, directing the respondents to produce the person or body of the petitioner's son, the detenu, namely, Palanivel Thillai Kumar, aged about 37 years, before this Court and set him at liberty.

For petitioner : Mr.RM.Arun Swaminathan
For respondents : Mr.C.Mayil Vahana Rajendran
Additional Public Prosecutor

For Detenu : Mr.M.Ajmal Khan
Senior Counsel
For Mr.Mohammed Athiff

O R D E R

[Order of the Court was made by **K.K.SASIDHARAN, J.**]

The petitioner filed this Habeas Corpus Petition to produce her son, by name, Palanivel Thillai Kumar, before this Court and to set him at liberty.



2. We have passed the following order, on 09.08.2016:-
"When the Habeas Corpus Petition came up for hearing on 05 August, 2016, Mr.M.Ajmal Khan, learned Senior Counsel appearing for the detenu submitted that the detenu would appear before this Court today. Accordingly, the matter was adjourned to be posted today.

2. When the Habeas Corpus Petition was taken up for consideration today, the detenu appeared before us.

3. Mr.M.Ajmal Khan, learned Senior Counsel for the detenu informed that the detenu was doing the business in real estate. He collected amount from various parties for allotment of land. However, on account of certain events beyond his control, plots could not be allotted to all the applicants. Some of the applicants have filed complaints before the police.

4. The learned Senior Counsel, by placing reliance on the assets and liabilities statement, submitted that the assets are more than the liability and the detenu is prepared to repay the money to all the depositors, after selling the immovable properties.

5. The learned Additional Public Prosecutor submitted that he would take instructions from the Inspector of Police, Economics Offences Wing, Tirunelveli.

6. The learned Additional Public Prosecutor wanted this matter to be posted on 17 August, 2016.

7. The learned Senior Counsel wanted us to direct the police not to arrest the detenu. No such direction can be given in this petition.

8. Post the matter on 17 August, 2016".

3. When the matter was taken up for consideration today, the learned Additional Public Prosecutor filed a status report, signed by the Deputy Superintendent of Police, Economic Offences Wing II, Tirunelveli. As per the said report, the police received complaints from 555 depositors alleging that the detenu defrauded a sum of Rs.1,79,61,599/-. The police has already registered a case in Crime No.2 of 2015, under Sections 406 and 420 of the Indian Penal Code and Section 5 of the Tamil Nadu Protection of Interest of Depositors [In Financial Establishment] Act, 1997, against the detenu. Even though the case was registered as early as in the year 2015, no concrete action was taken by the police.

4. Mr.M.Ajmal Khan, learned Senior Counsel for the detenu, submitted that this Court should make an attempt to settle the



matter by selling the property of the detenu.

5. The scope of Habeas Corpus Petition is very limited. The petitioner alleged that her son is in illegal custody. The detenu appeared before this Court and pleaded that he was not in illegal custody. Such being the factual position, we are not in a position either to accept the submission made by the learned Senior Counsel or to keep the Habeas Corpus Petition pending for further action.

6. The Habeas Corpus Petition is closed with the above observation. It is always open to the parties to approach the appropriate forum to redress the grievances.

Sd/-

Assistant Registrar(CS-I)

/True copy/

Sub Assistant Registrar

To:

1.The Commissioner of Police,
Madurai City, Madurai.

2.The Inspector of Police,
Sellur Police Station,
Madurai.

3.The Inspector of Police,
Economic Offences Wing,
Tirunelveli.

4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 cc to M/s.Ajmal Associates, Advocate in SR.No.45250

+1 cc to M/s.R.M.Arun Swaminathan, Advocate in SR.No.45221

NB

CSL/KBM/29.08.2016 :3P/7C

**ORDER MADE IN
H.C.P (MD) No.588 of 2016
17.08.2016**