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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.10.2016

CORAM:

THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN

and

THE HONOURABLE MS. JUSTICE V.M. VELUMANI

H.C.P. (MD) No. 683 of 2016

Lakshmi

: Petitioner

Vs.

1. The Superintendent of Police,
Thoothukudi District,
Thoothukudi.

2. The Inspector of Police,
Masarpatti Police Station,
Thoothukudi District.

3. Karuppasamy

4. Vinoth

: Respondents

PRAYER: Petition is filed under Article 226 of the Constitution of India praying for the issue of a Writ of Habeas Corpus, directing the respondents 1 and 2 to produce the petitioner's husband, the detenu or his corpus namely Thangapandian S/o. Karuppasamy, Male, Hindu, aged about 32 years, originally resided at Kailasapuram Village, Masarpatti Post, Thoothukudi District and after securing him from the illegal detention of the 3rd and 4th respondents before this Court and set him at liberty forthwith.

For Petitioner : Mr. S. Muthukumar

For Respondents : Mr. A. Ramar

(R1 & R2) Additional Public Prosecutor

O R D E R

(Order of this Court was made by **M. SATHYANARAYANAN, J.**)

The petitioner claims to be the wife of the detenu viz., Thangapandian would state that she got married to him in the year 2005 and thereafter, both of them went to New Delhi for eking out their livelihood and out of wedlock they have blessed with two children viz., Pavithra aged about 10 years and Manish Kumar aged about 6 years. The petitioner would further submit that in the year 2013, they left for the native places at Kailasapuram and subsequently, she came to know that her husband



had an illicit intimacy with one Revathy W/o.Sakthivel and in this regard, the petitioner has also lodged a complaint on 16.07.2014, of the file of the second respondent.

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2. According to the petitioner, her husband is found missing from 23.05.2016 and neither her father-in-law nor his family members were disclosed about his whereabouts and got the address of the 4th respondent, who is the brother of Revathy with whom her husband had an illicit affair. The petitioner also lodged a complaint as to the missing of her husband and the second respondent has registered a case in Crime No.53 of 2016 under Section "Man Missing".

3. The grievance expressed by the petitioner is that though nearly three months had elapsed, no effective steps had been taken by the second respondent to trace her husband and since she is left in lurch with the company of her two children, she is constrained to file this petition.

4. This Court has directed the filing of the status report and accordingly, the first respondent has filed the status report and the contents of the same would disclose among other things that husband of the petitioner was heavily indebted and he also had an illicit affair with one Revathy W/o.Sakthivel and both of them had eloped and effective investigation is going on and necessary steps are being taken to trace and secure her husband.

5. Mr.A.Ramar, the learned Additional Public Prosecutor appearing for the State would contend that the husband of the petitioner has also heavily indebted and in order to evade the repayment also might have absconded himself and on instruction would further submit that as and when he traced, she will be produced before the jurisdictional Magistrate, for passing appropriate orders.

6. This Court has carefully considered the rival submissions and also perused the materials placed before it.

7. A perusal of the affidavit filed in support of this petitioner would disclose among other things that the husband of the petitioner had an illicit affair with a married woman viz., Revathy S/o.Sakthivel. It is also the specific case of the respondent / State that he had eloped with her and sincere efforts are being taken to trace about his whereabouts.

8. In the considered opinion of this Court, there is no serious allegation of illegal detention of her husband and in the absence of such an averment, the Habeas Corpus Petition



cannot be ordered. However, in the light of the stand taken by the State in the Status Report, this Court directs the second respondent to take sincere efforts to trace the husband of the petitioner in connection with a case in the Crime No.53 of 2016 registered under Section 'Man Missing' and as and when he secured, shall produce him before the Jurisdictional Magistrate, for passing appropriate orders.

9. The Habeas Corpus Petition is disposed of Accordingly.

Sd/-

Assistant Registrar (T&P)

/True Copy/

Sub Assistant Registrar

To

1.The Superintendent of Police,
Thoothukudi District,
Thoothukudi.

2.The Inspector of Police,
Masarpatti Police Station,
Thoothukudi District.

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

+1 cc to M/s.S.Muthukumar, Advocate in SR No.59280/2016

Order made in
H.C.P. (MD) No.683 of 2016

Dated:
04.10.2016

MPK

ANR/SK-SKN/03.11.2016/3P/5C