



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **19.09.2016**

CORAM:

THE HONOURABLE MR.JUSTICE **S.NAGAMUTHU**
AND
THE HONOURABLE MR.JUSTICE **M.V.MURALIDARAN**

H.C.P. [MD] .No.756 of 2016

Nazar : Petitioner

Vs.

- 1.The Director General of Police,
DGP Office, Chennai 4.
 - 2.The Commissioner of Police,
Madurai City Police, Madurai 7.
 - 3.The Superintendent of Police,
Kanyakumari District, Nagercoil,
Kanyakumari District.
 - 4.The Inspector of Police,
Special Branch Crime Investigation Department [SBCID],
District Police Office,
Nagercoil, Kanyakumari District.
 - 5.The Inspector of Police,
Anna Nagar Police Station,
Madurai.
 - 6.The Inspector of Police,
Aralvaimozhi Police Station,
Kanyakumari.
- : Respondents

PRAYER: Habeas Corpus Petition is filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus directing the respondents to produce the detenu, namely, Natheem, S/o.Nazar, aged 25 years, before this Court and set him at liberty and consequently direct the first respondent to take appropriate action against the respondent Nos.2 to 6.

For Petitioner : Mr.S.M.A.Jinnah

<https://hcservices.ecourts.gov.in/hcservices/>
For Respondents : Mr.A.Ramar
Additional Public Prosecutor

**O R D E R**

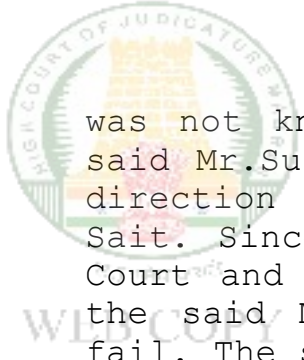
[Order of the Court was made by **S.NAGAMUTHU, J.**]

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The petitioner is the father of one Mr.Natheem, aged about 25 years, [hereinafter referred to as "the detenu"]. The detenu was a student of law, doing three years law course in the Government Law College at Tirunelveli. The petitioner has further stated that on 17.10.2015, at 07.00 PM, few police men came to his house in civil dress in search of the detenu. The police men again came on 18.10.2015, at about 10.00 AM and asked about the whereabouts of the detenu.

2. In the said circumstances, the detenu filed CrI.OP(MD). No.21610 of 2015 seeking a direction to the respondents not to harass him. A learned Single Judge of this Court, by order dated 17.11.2015, disposed of the said Criminal Original Petition, directing the respondents that under the guise of enquiry, the detenu should not be harassed and if he was to be interrogated, the directions of the Hon'ble Supreme Court in **D.K.Basu Vs State of West Bengal**, reported in **AIR 1997 SC 610**, should be followed. Because of this, according to the learned counsel, the police got wild. Therefore, according to him, the police implicated the detenu in a case in Crime No.859 of 2015, on the file of the Karimedu Police Station for offences under Section 3 of the Explosive Substances Act, 1908 and Section 3 of the Tamil Nadu Property [Prevention of Damage and Loss] Act, 1992, which, according to the learned counsel, is a false case. Again, on the file of the Thuckalay Police Station in Crime No.122 of 2016, for offences under Sections 147, 120(b), 307 r/w 116 of the Indian Penal Code, he was implicated. He obtained Anticipatory Bail from this Court in CrI.OP(MD).No.6592 of 2016, dated 25.04.2016. In yet another case in Crime No.18 of 2015, he was granted bail by the learned Principal District Judge, Madurai. In those two matters, there was a direction to the detenu to appear before the learned Judicial Magistrate No.V, Madurai, every day. The detenu was following the said bail conditions.

3. It is stated that on 10.06.2016, around 10.45 AM, when the detenu, along with one Mr.Sulaiman Sait, was returning from the Court of the learned Judicial Magistrate, No.V, Madurai, the detenu was assaulted by some identifiable 20 persons and they abducted him along with the said Mr.Sulaiman Sait in a TATA Sumo Car. Mr.Sulaiman Sait, according to the learned counsel, informed the same to the petitioner. Immediately, the petitioner approached the sixth respondent and made a complaint. But, the respondents 5 and 6 refused to give any acknowledgment for the same. There was no action taken on the same. Since the whereabouts of the detenu



was not known, on 11.06.2016, Mrs.Kanniammal, the mother of the said Mr.Sulaiman Sait, filed H.C.P.(MD).No.720 of 2016, seeking a direction to the respondents to produce her son - Mr.Sulaiman Sait. Since it was a holiday, a Special Sitting was held by this Court and this Court directed the respondents 3 to 6 to produce the said Mr.Sulaiman Sait, on 13.06.2016, at 10.30 AM, without fail. The said order was immediately communicated.

4. According to the learned counsel for the petitioner, having known the said order passed, on 11.06.2016, the sixth respondent foisted a false case against the detenu and the said Mr.Sulaiman Sait, arrested them and produced them before the jurisdictional Court, on 12.06.2016. When the detenu and Mr.Sulaiman Sait were kept in illegal custody, it is alleged that they were attacked severely by the police. The petitioner, later on, came to know that the detenu was taken from the District Court premises, at Madurai, on 10.06.2016, by the police. Both of them were detained in a room, where they were brutally attacked. It is alleged that the detenu sustained grievous injuries.

5. In the above said circumstances, the petitioner filed H.C.P.(MD).No.756 of 2016, on 15.06.2016, seeking a direction for the release of the detenu from the custody and set him at liberty.

6. When this Habeas Corpus Petition came up for hearing, on 20.06.2016, a Division Bench of this Court directed the Superintendent of Prison, Palayamkottai, Tirunelveli District, to produce the detenu - Mr.Natheem, before this Court, on 22.06.2016 and the Habeas Corpus Petition was directed to be listed on 22.06.2016.

7. On 22.02.2016, the detenu - Mr.Natheem gave a written statement, wherein he alleged that he was illegally detained for two days and he was brutally attacked by the police. This Court, taking into consideration the said submission made, on the very same day, passed an order, which reads as follows:-

"Thiru.Sam Veda Manickam, Inspector of Police, Armed Reserve, Tirunelveli City produced the detenu, by name Natheem, S/o.Nazar, before us, pursuant to our order dated 20 June, 2016. The detenu is now in legal custody. The detenu wanted to give a statement. We have recorded the statement of the detenu. We have also passed a separate order in the matter.

2. This order pertains to the treatment to be given to the detenu. The detenu, in his statement, stated that he was brutally assaulted by the police and he sustained multiple injuries all over the body, both hands, neck and right leg knee and back. According to the detenu, he was not given proper treatment, in spite



of making request.

3. We direct the Superintendent of Central Prison, Palayamkottai, to produce the detenu, by name, Natheem, S/o.Nazar, before the Dean, Madurai Government Rajaji Hospital, Madurai, forthwith. Since the Superintendent of Central Prison is not present in Court today, the detenu would be taken to the hospital by Thiru.Sam Veda Manickam, Inspector of Police, Armed Reserve, Tirunelveli City.

4. The Dean, Madurai Government Rajaji Hospital, Madurai, is directed to examine the detenu. In case, on examination, it is found necessary that the detenu should be admitted, necessary action should be taken to admit him for giving treatment.

5. We direct the Dean, Madurai Government Rajaji Hospital, Madurai, to permit the father of the detenu, by name M.H.Nazer (Permanent Account Number ATCPN5712D) to accompany the detenu, while giving him treatment.

6. The Dean is, further, directed to submit a report with regard to the injuries sustained by the detenu, treatment given and his present health condition. The report should be filed before this Court in a sealed cover on 04 July, 2016.

7. Post the matter on 04 July, 2016".

8. On 22.06.2016, this Court passed yet another order, which reads as follows:-

"The Registry is directed to provide a copy of the statement given by the detenu Natheem, to the respondents 2 to 6, so as to enable them to file the response by 04 July, 2016.

2. The learned Judicial Magistrate, Boothapandi, is directed to produce the entire documents including the First Information Report and the remand report in Crime No.201 of 2016 on the file of Inspector of Police, Aralvaimozhi Police Station. The documents should be sent to this Court by way of a special messenger, so as to reach here, by 29 June, 2016.

3. Post the Habeas Corpus Petition on 04 July, 2016."

<https://hcservices.ecourts.gov.in/hcservices/>

9. In pursuance of the order passed by this Court, the detenu was admitted in the Government Rajaji Hospital, Madurai. The



doctor, on duty, found the following injuries:-

"1. Contusion of size 3 X 1 CM over right and left wrist.

2. Healed abrasion of size 0.5 X 0.5 CM over neck".

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10. The Professor and Head of the Department of General Surgery has submitted a report to this Court, under Letter Ref.No.140/Surg/2016, dated 02.07.2016. Thereafter, the case was adjourned to several hearings.

11. Finally, when this Habeas Corpus Petition came up for hearing before this Division Bench today, the learned counsel for the petitioner submitted that from the records and from the statement of the detenu, it is crystal clear that the detenu was detained illegally for two days and he was brutally attacked by the police. Therefore, the detenu is entitled for compensation.

12. The learned Additional Public Prosecutor appearing on behalf of the State would submit that there is no truth in the allegation that the detenu was detained illegally in the police custody and that he was brutally attacked. Insofar as the injuries found on the detenu, as reported by the Dean, Government Rajaji Hospital, Madurai, the first injury was only a contusion, measuring 3 X 1 CM over the right and left wrists and the other one was an abrasion, measuring 0.5 X 0.5 CM over the neck. These injuries are all minor in nature, which could even be caused on account of self-infliction. Thus, according to the learned Additional Public Prosecutor, there is no material even remotely to infer that the detenu was illegally detained and that he was brutally attacked by the police. He would further submit that since the detenu was remanded to judicial custody, there is no question of illegal custody. Thus, according to him, the Habeas Corpus Petition deserves to be dismissed.

13. We have considered the above submissions.

14. Insofar as the implication of the detenu in the criminal case is concerned, we cannot express any opinion as to whether he has been implicated in those cases or not. These are immaterials, which need to be investigated thoroughly and it is for the Court concerned to decide about the same. It is too well settled that under the Habeas Corpus jurisdiction, the Court is concerned with the question as to whether as on the date of hearing of the Habeas Corpus Petition, the detenu was detained illegally or not. Assuming that he was detained illegally for sometime, prior to the filing of this Habeas Corpus Petition, it is not very material to decide the issues in the Habeas Corpus Petition.

15. In the instant case, admittedly, the detenu was arrested and remanded to judicial custody. Thus, there is no question of

illegally
by the p

16. In the result, the Habeas Corpus Petition is dismissed.

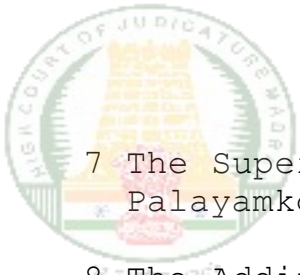
Sd/
Assistant Registrar (CO)

/True Copy/

Sub Assistant Registrar

To

- 1.The Director General of Police,
DGP Office, Chennai 4.
- 2.The Commissioner of Police,
Madurai City Police, Madurai 7.
- 3.The Superintendent of Police,
Kanyakumari District, Nagercoil,
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- 6.The Inspector of Police,
Kanyakumari District Police Station,
Kanyakumari.



7 The Superintendent of Central Prison,
Palayamkottai

8 The Additional Public Prosecutor,
Madurai Bench Of Madras High Court, Madurai

Copy to:
The Section Officer,
Criminal Section,
Madurai Bench of Madras High Court, Madurai

ORDER MADE IN
H.C.P. [MD] .No.756 of 2016
19.09.2016

SMA/GSV-PM/SAR-III/06/10/2016 :7P/10C