

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 18.04.2017

CORAM

THE HONOURABLE MR. JUSTICE S.NAGAMUTHU
and
THE HONOURABLE DR.JUSTICE ANITA SUMANTH

H.C.P No.176 of 2017

Sundaravalli

.. Petitioner

Vs

1.State of Puducherry rep. By
the Chief Secretary,
Government of Puducherry,
Puducherry.

2.The Inspector General of Police,
Puducherry.

3.Superintendent of Police,
Puducherry.

4.Inspector of Police,
Periya Kadai (Grand Bazar)
Police Station,
Puducherry.

5.V.Venkadasuppu

6.Suganthi

.. Respondents

Habeas Corpus Petition filed under Article 226 of the Constitution to issue a writ of Habeas to direct the respondents 1 to 4 to produce Dr.V.Veerasamy @ V.V.Ashok, the husband of the petitioner herein after tracing him and set him at liberty.

For Petitioner :Mr.K.Moorthy

For RR1 to 4 :Mr.Tamizhvanan,
Government Advocate (Puducherry)

For RR5 & 6 :Mr.K.Subburam

ORDER

(Order of the Court was made by S. NAGAMUTHU, J.,)

The petitioner is the wife of one Dr.V.Veerasamy @ V.V.Ashok. According to the petitioner, the marriage between them was solemnized on 25.04.2012 and out of the said wedlock, a male child was born to them on 21.02.2013. The respondents 5 & 6 are the parents of Dr.V.Veerasamy @ V.V.Ashok. At the time of marriage, Dr.V.Veerasamy @ V.V.Ashok was working in Sri Ramachandra Medical College & Hospital, Porur, Chennai. It is now alleged by the petitioner that the respondents 5 & 6 are illegally detaining Dr.V.Veerasamy @ V.V.Ashok. Therefore, the petitioner has come up with this Habeas Corpus Petition.

2. But, a perusal of the records would go to show that there appears to be some matrimonial dispute between the petitioner and her husband. In fact, in this regard, the petitioner has made a complaint before the learned Judicial Magistrate No.1, Panruti under the provisions of the Protection of Women From Domestic Violence Act, 2005 in D.V.C.No.4/2016 wherein, she has prayed for several reliefs. Having made such allegations under the provisions of the Protection of Women From Domestic Violence Act, 2005, against Dr.V.Veerasamy @ V.V.Ashok and his parents, it is really surprising that the petitioner has come up with this Habeas Corpus Petition alleging that her husband has been illegally detained by the respondents 5 & 6.

3. The allegations made by the petitioner before the learned Judicial Magistrate No.1, is that her husband and in-laws have caused Domestic Violence to her. It is not understandable as to how the petitioner could claim now that her husband has been illegally detained by his parents.

4. In our considered view, this petition is a clear abuse of process of Court. The learned counsel for the petitioner placed reliance on the judgment of a Division Bench of this Court in Sheeja C.S v. State of Kerala (2014 SCC OnLine Ker 15543). A perusal of the said judgment would go to show that the same has got nothing to do with the facts of the present case. In the instant case, as we have already narrated, the petitioner has already filed a case under the Protection of Women From Domestic Violence Act, 2005, against her husband and in-laws and the same is now pending before the learned Judicial Magistrate concerned. The issue between the petitioner and her husband could be settled only before the Civil Court.

5. Further, as we have already pointed out, it is a clear abuse of process of Court. It is seen that even the Registry itself had returned the petition by raising doubt about the maintainability of this petition. In view of all the above, not only the Habeas Corpus Petition is liable to be dismissed but the petitioner is liable to pay cost.

6.In the result, the Habeas Corpus Petition is dismissed with a cost of Rs.5,000/- to be paid by the petitioner to the Legal Services Authority, High Court, Madras on or before 26.04.2017.

Post the matter on 27.04.2017 for reporting compliance.

Sd/-
Asst.Registrar (J)

/true copy/

Sub Asst. Registrar

To

1.The Chief Secretary,
Government of Puducherry,
Puducherry.

2.The Inspector General of Police,
Puducherry.

3.Superintendent of Police,
Puducherry.

4.Inspector of Police,
Periya Kadai (Grand Bazar)
Police Station,
Puducherry.

5.The Public Prosecutor,
High Court, Chennai.

Copy to:

The Member Secretary,
Legal Service Authority,
High Court, Madras.

+1 cc to Mr.Murthy,advocate,sr.23337.

mg(co)
krd 26/4

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