

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.01.2017

CORAM

THE HONOURABLE MR.JUSTICE RAJIV SHAKDHER
AND
THE HONOURABLE MR.JUSTICE T. MATHIVANAN

H.C.P.NO.24 OF 2017

M.Senthilkumar

.. Petitioner

Vs.

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

2.The Inspector of Police
Magudanchavadi Police Station
Sankagiri Taluk,
Salem District.

3.Arumugam

4.A.Mariappan

5.Santhappan

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Habeas Corpus directing the respondent 1 to 2 to produce the body of the Detenue namely S.Parvathy, W/o.M.Senthilkumar and S.Naveen, S/o.M.Senthilkumar both of them residing at 8/178, Siddheswar Nagar, Edangana Salai, Sankagiri Taluk, Salem District before this Court and set them at liberty.

For Petitioner

: Mr.Harish

for Mr.A.Esakkiappan

For Respondents

: Mr.V.M.R.Rajentren

1 and 2

Additional Public Prosecutor

O R D E R
[Order of the Court was made by RAJIV SHAKDHER, J.]

1. This is a petition whereby a direction is sought qua respondents 1 and 2 for production of Ms.S.Parvathy, who is the wife of the petitioner herein.

2. The affidavit accompanying the writ petition demonstrates that, there is a matrimonial discord, between the petitioner and his wife Ms.S.Parvathy, which led to institution of a petition for restitution of conjugal rights by the petitioner.

2.1. The petitioner avers that the action for restitution of conjugal rights, was preferred by him, before the Sub Court at Sankagiri and stands registered as H.M.O.P.No.73 of 2015.

2.2. It is the stand of the petitioner that since his wife Ms.S.Parvathy did not appear, the concerned Court passed an exparte decree, on 14.07.2016, in the aforementioned proceedings.

2.3. The reason, the petitioner says that he chose to approach this Court, is that, despite, having obtained the said decree, respondent Nos. 3, 4 and 5, who are the father-in-law, the brother and the uncle, respectively of Ms.S.Parvathy are preventing her from meeting the petitioner.

2.4. It is in these circumstances, the petitioner appears to have filed the instant petition.

3. Having considered the matter, we are of the view that the petitioner has the liberty to seek execution of the decree, dated 14.07.2016, passed in H.M.O.P.No.73 of 2015, albeit, in accordance with law.

4. The present action, in our view, is not maintainable and, is in fact, a circuitous methodology employed by the petitioner, to seek execution of the decree. Having regard to the aforesaid facts and circumstances, we are not inclined to entertain the petitioner.

5. The Habeas Corpus Petition is, accordingly, dismissed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

TK

To

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

2.The Inspector of Police, Magudanchavadi Police Station
Sankagiri Taluk, Salem District.

3.The Public Prosecutor, High Court of Madras.

+1cc to Mr.A. Esakkiappan, Advocate, S.R.No.2118

ss(CO)
md(24/01/2017)

H.C.P. NO.24 OF 2017



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