

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13..03..2017

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

Habeas Corpus Petition No.341 of 2017

R.Raju ... Appellant

-Versus-

- 1.The Inspector of Police,
F-1, Avadi Police Station,
Avadi, Chennai 600 054.
- 2.The Commissioner of Police,
O/o The City Police Commissioner,
Chennai City Police,
Veppery, Chennai 600 007.
- 3.The Deputy Commissioner of Police,
Ambattur Range,
O/o The Deputy Commissioner of Police,
Ambattur, Chennai 600 053.
- 4.G.Raghuraman ... Respondents

Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Habeas Corpus calling for the records in CSR No.578 of 2016 on the file of the 1st respondent which was registered based on the complaint dated 04.07.2016 and to direct the respondent police to cause production of the detainee - R.Sanjana , aged 21 years, who is under the illegal detention of the 4th respondent.

For Petitioner : Mr.R.John Sathyan

For Respondents: Mr.V.M.R.Rajentren,
APP for R1 to R3
: Mr.B.Thiyagarajan for
Mrs.Usha (Alleged wife)
Mr.S.Sathyanarayanan for detainee
R4 - present

ORDER

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

The petitioner is father of one Ms.Sanjana, aged 21 years. Ms.Sanjana is a graduate having B.C.A., degree to her credit. According to the petitioner, the 4th respondent had lured her, taken her and married her on 22.02.2016 without the knowledge of the petitioner and the other family members. But, the said marriage is unlawful. According to the petitioner, she is illegally detained by the 4th respondent. Therefore, he has come up with this petition.

2. When this petition was taken up for hearing, Ms.Usha, D/o.Thirunavukkarasu, appeared before us. She told that in the year 2008 itself, the 4th respondent married her on his own volition out of free will and through the said marriage, she became pregnant twice. But, on both the occasions, the pregnancy was terminated for some reasons or other. She further stated that the 4th respondent without her knowledge appears to have developed intimacy with Ms.Sanjana. She in tears prayed this court that she may be allowed to live with the 4th respondent.

3. Today, the 4th respondent appeared before us. He told us Ms.Sanjana is his wife. The marriage between him and Miss.Sanjana took place on 22.02.2016 at Thiruporur Murugan Temple. Subsequently, the marriage was also registered. Thus, according to him, he is lawfully wedded to Ms.Sanjana and through the said wedlock, according to him, Ms.Sanjana is now seven months pregnant. He would further submit that the family members of Ms.Usha took him in force and arranged for marriage between him and Ms.Usha. Then, there was marriage between him and Ms.Usha, but, that was out of compulsion. He further told that Ms.Usha is aged more than him and he never liked to marry her. He further stated that he had live-in-relationship with the sister of Ms.Usha and, later on, Ms.Usha developed intimacy with him. Because of that intimacy only, she became pregnant. He further submitted that there was no valid marriage at all between him and Ms.Usha.

4. Ms.Sanjana was produced by the police before us. She has stated that she had fallen in love with the 4th respondent and out of the said love, she has married him on 22.02.2016. Now, she is pregnant. She has been living only with the 4th respondent. The 4th respondent. She wants to go back only with the 4th respondent. The petitioner and his wife-Mrs.Devi appeared before us. They wanted Ms.Sanjana to come with them and they assured that they would take care of her. They did not accept the alleged marriage between the 4th respondent and Ms.Usha.

5. We have considered the above submissions of the parties. Whether Ms.Sanjana is the first wife or Ms.Usha is the first wife is a question of fact which cannot be gone into by this court. In this petition, we are concerned only with the liberty of the detainee. Ms.Sanjana has told us that she would like to live only with the 4th respondent. Whether her claim that she is the legally wedded wife of the 4th respondent or not need not be gone into by this court. Similarly, the claim of Ms.Usha that she is the legally wedded wife and that the 4th respondent has cheated her is also a question of fact which also need not be gone into by this court in this petition. It is for Ms.Usha to approach the police with a complaint, if so advised, seeking appropriate remedy.

6. The parents of Ms.Usha are helpless. Their plea to take the detainee back to the parental home is proved futile. Since Ms.Sanjana is a major, we cannot compel her to go to the custody of her parents. Thus, the only option before us is to let Ms.Sanjana liberty leaving it open for her to choose her own way of life and leaving it open for the other parties to workout their remedies in the manner known to law.

7. In the result, the habeas corpus petition is disposed of with the above observations.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

kmk
To

1.The Inspector of Police, F-1, Avadi Police Station, Avadi,
Chennai 600 054.

2.The Commissioner of Police,
O/o The City Police
Commissioner, Chennai City Police,
Veppery, Chennai-7.

3.The Deputy Commissioner of Police,
Ambattur Range,
O/o The Deputy Commissioner of Police,
Ambattur,
Chennai 600 053.

4.The Public Prosecutor,
High Court,Madras.

+1cc to Mr.R.John Sathyan, Advocate Sr.15939

H.C.P.No.341 of 2017

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