

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 24.04.2017

CORAM

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

H.C.P No.52 of 2017

P. Raja

...Petitioner

Vs

1. The Superintendent of Police,  
Salem District

2. The State of Tamil Nadu,  
rep by the Inspector of Police,  
Tharamangalam Police Station,  
Salem District

...Respondents

Habeas Corpus Petition filed under Article 226 of the Constitution of India to issue an Order, direction or writ in the nature of a Writ of Habeas Corpus directing the respondent Inspector of Police, Tharamangalam Police Station to produce either person or body of the petitioner's wife Elakkiya aged 26 years, Pandaranathan, Kattu Valavu, Mallikuttai Village, Omalur Taluk, Salem District, Salem before this Court to set her at liberty.

For Petitioner : Mr.R. Deepa

For R.1 & R.2 : Mr.V.M.R. Rajentren  
Additional Public Prosecutor

ORDER

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

The petitioner is the husband of one Mrs. Elakkaiya, aged about 26 years. The marriage between the petitioner and Elakkaiya took place in the year 2007. But there was no child born out of the said marriage. Mrs.Elakkaiya was working in

Sarva Shiksha Abiyan Education for all Department. On 19.02.2016 around 9.00 a.m, the petitioner took his wife in a two wheeler and dropped her at the bus stop. In the usual course, she would have returned home after attending work. But till 7.00 p.m, she did not return. Therefore, the petitioner searched for her. Since she is not found anywhere, the petitioner made a complaint on 21.02.2016. On the said complaint, a case was registered in Cr.No.124 of 2016. Since Ms.Elakkaiya was not secured by the police, the petitioner has come up with this habeas corpus petition.

2. Today, when the habeas corpus petition came up for hearing, the second respondent produced Elakkaiya. We enquired her. She told that there were frequent quarrels between her and the petitioner. She has stated that on 16.02.2016 she eloped with one Suresh. Mr. Suresh is already a married man, having two children. His wife is very much alive and the marriage between them is also subsisting and the marriage between the petitioner and Mrs.Elakkaiya is also subsisting. Mrs.Elakaiya would further state that she married Mr.Suresh and out of the wed lock, a male child was born on 31.10.2016 and she stated that now she has been living with Mr.Suresh. When we enquired as to whether, being a teacher, she was aware of law that marrying another person, who is already married, would amount to an offence. She told us that she was aware of the said law, but still she married Mr.Suresh.

3. Obviously, the said marriage is not valid and the same is void. Anyhow, we need not go into the question of marital relationship between them. We are concerned only about the safety of Ms.Elakkaiya. Since she has not been illegally confined and she has been living with Mr.Suresh, we are unable to grant any relief. Therefore, this habeas corpus petition is dismissed, with liberty to Mrs.Elakkaiya to decide about her future on her own accord. It is for the petitioner to work out through Civil Court.

सत्यमेव जयते

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

sr

To

1. The Superintendent of Police,  
Salem District
2. The Inspector of Police,  
Tharamangalam Police Station,  
Salem District
3. The Public Prosecutor,  
High Court, Chennai.

+1 cc to R.Deepa, Advocate, sr.25095

HCP No.52 of 2017

ssi(co)  
rmp(11/05/17)



WEB COPY