

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.06.2017

CORAM:

The Hon'ble Mr.Justice Nooty.Ramamohana Rao
and
The Hon'ble Mr.Justice Abdul Quddhose

H.C.P. No. 926 of 2017

S. Alan David Rufus

..Petitioner

Vs.

1. The State rep. By
The Commissioner of Police,
Greater Chennai,
Vepery, Chennai - 600 007.
2. The State Rep. By
The Inspector of Police,
Law and Order,
S-12, Chitlapakkam Police Station,
Chennai - 600 064.

3. A. Basheer

...Respondents

Prayer:- This Petition is filed under Article 226 of the Constitution of India, praying for issuance of a writ of habeas corpus, directing the respondents to produce the body of the petitioner's wife Ali Fathima, aged 24 years, before this Court and set her at liberty.

For Petitioner : Mr.S.Alan David Rufus

For Respondent 1&2 : Mr. V.M.R. Rajendran, APP

For Respondent 3 : NA

O R D E R

Order of the Court was delivered by Nooty.Ramamohana Rao,J.

This Habeas Corpus Petition is instituted by an young advocate, seeking a Writ of Habeas Corpus Petition for causing the production of one Ali Fathima, aged about 24 years.

2. It is the allegation of the petitioner that he and the alleged detainee, Ali Fathima are class fellows during their course of study of law and since they liked each other, they have decided to get united by marrying each other.

3. It is also the further case of the petitioner that, respecting the religious sentiments of the alleged detainee, the petitioner has changed his religion and then contracted the marriage with Ali Fathima. Such facts are rebuttable facts. But, however, since the petitioner has alleged that Ms. Ali Fathima was illegally detained, we only wanted to ascertain as to whether any such illegal detention has been resorted to or not.

4. At our request, the learned Additional Public Prosecutor has caused investigation into the matter by the Police. The Police have gone to the place, where the father of the alleged detainee was a normal resident. They have traced the house, but unfortunately, the house is locked and there is no one residing at present in that house.

5. It is, thereafter, the Police have come to know that the alleged detainee has already filed a Civil Suit, seeking injunction against the petitioner herein, in one of the Civil Courts at Kanniyakumari District. A Copy of the Complaint has been secured by the Police, which has been placed before us. As a matter of information, we have shown the copy of the complaint to the learned Counsel for the petitioner. He has taken note of the case number and the details of the court and also the relief sought for in the Suit. It is therefore, clear to us that, there are certain disputes which require to be resolved by leading appropriate evidence by both sides.

6. In the given circumstances, we consider that exercise of extraordinary Jurisdiction under Article 226 of the Constitution of India and that too, by way of granting the Habeas Corpus Petition may not be the most appropriate relief, that should be granted. Instead, since, the petitioner himself is a lawyer, it is open to him, to appropriately defend the suit and also take measures for the purpose of securing a mutually amicable settlement there in the said Suit.

7. However, if the petitioner has any apprehension to appear before the Civil Court at Kanyakumari freely, he is at liberty to approach the local police concerned and secure the help and assistance from them for his appearance before the court concerned and for his safety.

8. Preserving the said liberty, we dispose of this Habeas Corpus Petition .

Sd/-
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

ak/tsi

To

1. The Commissioner of Police,
Greater Chennai,
Vepery, Chennai - 600 007.
2. The Inspector of Police,
Law and Order,
S-12, Chitlapakkam Police Station,
Chennai - 600 064.
3. The Public Prosecutor, High Court, Madras.

+2cc to Mr.S.Alan David Rufus, Advocate in sr.no.44840

H.C.P. No. 926 of 2017

SAI (CO)
NR 20/07/2017



WEB COPY