

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.02.2017

CORAM

THE HONOURABLE MR.JUSTICE M.JAICHANDREN
and
THE HONOURABLE MR.JUSTICE T.MATHIVANAN

H.C.P.No. 1377 of 2016

Tinagaran Puvanasan

... Petitioner

Vs.

1. State Rep. by the Commissioner of Police
Coimbatore

2. The Inspector of Police
All Women Police Station
Thuidyalor, Coimbatore

3. Palaniswamy

4. Baggyalakshmi

... Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Habeas Corpus directing the 1st respondent herein to produce the petitioner's wife Vishnupriya, who is now illegally detained by the 3rd and 4th respondents before this Court and set her at liberty.

For Petitioner : Mr.S.Sivakumar

For Respondents : Mr.V.M.R.Rajentren
Additional Public Prosecutor
for R1 & R2

Mr.S.Prabhakaran
Senior counsel
for Mr.M.A.Gouthaman for R3
Mr.S.Prabhakaran
Senior counsel
for Mr.S.Mohanasundararajan for R4

ORDER

[Order of the Court was made by T.Mathivanan, J.]

Heard the learned counsel appearing on behalf of the petitioner, the learned Additional Public Prosecutor appearing on behalf of the respondents 1 and 2 and Mr.S.Prabhakaran, learned senior counsel appearing on behalf of Mr.M.A.Gouthaman, learned counsel on record for the third respondent and Mr.S.Mohanasundararajan, learned counsel on record for the fourth respondent.

2. In pursuant to the order dated 31.01.2017, this petition is listed today for hearing. In the order dated 31.01.2017, the detainee was directed to be kept in Dhanam Ladies Hostel, Egmore, Chennai - 600 008 and the Inspector of Police, Egmore Police Station, Chennai - 600 008 as well as the jurisdictional Deputy Commissioner (Law and Order), Triplicane, were directed to ensure that the detainee is kept free from any disturbances or any harm, either physically or mentally, either by the petitioner or by the respondents 3 and 4. By virtue of the direction of this Court as aforesaid, the detainee was produced before this Court by the second respondent, Inspector of Police, All Women Police Station, Thuidyalor, Coimbatore.

3. Obviously, this petition came up for hearing before this Court on 23.08.2016. While so, the third respondent, who is none other than the father of the detainee, had appeared along with one Mrs.Vasanthamani and his close relatives viz., S.Gunasekaran, S/o.R.Sivasamy and O.Radha Krishnan S/o.Othimalai Gounder. The petitioner Mr.Tinagaran Puvanasan was also present.

4. On enquiry, the detainee had stated that she proposed to marry the petitioner and that there was no such marriage between them. She had also stated that her mother, who is the fourth respondent, was mentally ill for the past six months and therefore, she needed constant intensive treatment. Hence, she preferred to be with Mrs. Vasanthamani so as to take care of her mother. She had also stated that she would decide about her further course only after six months. Her statement was recorded. Ultimately, this Court had directed the Registry to list the matter on 01.03.2017 with the following directions:

- i. The 3rd respondent, Palaniswamy and Mrs.Vasanthamani, shall appear before this Court on 01.03.2017.
- ii. The detainee Miss.Vishnupriya shall also appear before this Court on the same day.

iii.The petitioner shall also appear before this Court on the same day.

iv.The Inspector of Police, All Women Police Station, Thudiyalor, Coimbatore is directed to make surprise visits to the house of Mrs.Vasanthamani to verify whether the detainee is kept free from any disturbances both physically and mentally and ensure her safety.

5. Though the Registry was directed to list the matter on 01.03.2017, it was advanced and listed on 31.01.2017 before this Court at the instance of Mr.V.M.R.Rajentren, learned Additional Public Prosecutor on the ground that by virtue of the interim order dated 23.08.2016, the detainee was to be produced before this Court and accordingly, this matter was taken up on that day. When the matter was taken up for hearing on that day, the detainee Vishnupriya was produced by Mrs.Karpagam, Inspector of Police, All Women Police Station, Thudialur, Coimbatore. The petitioner Mr.Tinagaran Puvanasan was also present. When the Court made enquiry with the detainee, she had stated that while she was working in Singapore, she started loving the petitioner and accordingly taken a decision to marry him and necessary on-line application was also made before the concerned Marriage Registrar at Singapore and before the registration could take place, her parents viz., Respondents 3 and 4 had become aware of her relationship with the petitioner and therefore, they had raised their objection and on the pretext of the information that her grandfather had passed away, she was brought to Coimbatore and kept in illegal custody. She had also revealed that she was subjected to physical and verbal abuse and since she had fallen in love with the petitioner on her own volition, she wanted to go along with him. She had further stated that her Passport and other travel documents were destroyed by her parents and therefore, she intended to apply for an Emergency Passport, so as to enable her to go along with the petitioner to Singapore for the purpose of getting the marriage registered and start living with him as husband and wife.

6. On that day, i.e., on 31.01.2017, Mr.S.Prabhakaran, the learned senior counsel, assisted by Mr.Mohanasundararajan, learned counsel appearing for the fourth respondent had vehemently objected to let the detainee to go along with the petitioner for the reason, according to Mr.S.Prabhakaran, the petitioner is not a Malaysian National, but a Srilankan and that he is having bad antecedents and under the pretext of loving the detainee, he wants to gobble all the money lying in the bank deposits and managed to take a sum of Rs.40 lakhs out of the bank deposits. When this was brought to the knowledge of the parents of the detainee, viz., Respondents 3 and 4, in the interest of their daughter, they had brought her to Coimbatore.

But, in fact, she was not kept in their illegal custody. Mr.Prabhakaran had also urged this Court to grant some more time so as to enable him to file counter affidavit with supporting documents in the form of typed-set of documents. Accordingly, this matter was directed to be listed today and the detainee was also directed to be housed in Dhanam Ladies Hostel, Egmore, Chennai - 600 008, as stated in the opening paragraphs.

7. When the matter was taken up for hearing today, the detainee was produced before this Court by the second respondent, Inspector of Police, All Women Police Station, Thuidyalor, Coimbatore. On enquiry, the detainee had repeated her earlier version what she had told before this Court on 23.08.2016 and 31.01.2017. She has also reiterated her earlier stand that she was kept in illegal custody of her parents viz., respondents 3 and 4 and she was subjected to mental and physical harassment while she was staying in Singapore and she had also lodged a complaint before the concerned police officials in Singapore. Further she would state that she is qualified in B.E. Mechanical Engineering and requested to let her to go along with the petitioner Tinagaran Puvanasan.

8. But, Mr.Prabhakaran, the learned senior counsel appearing on behalf of respondents 3 and, 4 has submitted that the detainee is a mentally imbalanced girl and only for her interest, her parents have been urging to let her with their custody because the antecedents of the petitioner is not upto the mark. He has also argued that the petitioner is a Srilankan national and working in Malaysia and planned to use the detainee for making money. Further, he has contended that this Habeas Corpus Petition, filed under Article 226 of the Constitution of India, is an abuse of process of Court without basic facts of the case. He has also contended that the petitioner is not the husband of the girl Vishnupriya and that on verification made by the respondents 3 and 4, it was found that the address given by the petitioner in his affidavit filed in support of the writ petition is vague and no such address was found in Singapore.

9. He has also submitted that the third respondent, being the father of the detainee, had personally verified and found that all the informations given by the petitioner in his affidavit are all false. The learned Senior counsel has also maintained that the educational qualification of the petitioner and his employment in the office of M/s.Flowserve Pte Ltd., at Singapore, are all false. He has further added that the identity and the educational qualification as well as the employment of the petitioner are all questionable and on verification, it is found that the information furnished by the petitioner in his affidavit are incorrect. Since the respondents 3 and 4 happened to be the parents of the detainee,

they are duty bound to protect the welfare and interest of their daughter and therefore, he has strongly objected to let the detainee to go along with the petitioner. Mr.S.Prabhakaran, the learned senior counsel has also questioned the maintainability of this petition on the following two grounds:

i. Since the petitioner is a foreign national, he cannot directly come down and file a petition with his own affidavit, which itself is not admissible in law.

ii. The fourth respondent is mentally ill and seeking a direction against an insane person is barred by law and therefore, he has urged to dismiss the present Habeas Corpus Petition.

10. On the other hand, Mr.S.Sivakumar, the learned counsel appearing for the petitioner has argued that the petitioner Mr.Tinagaran Puvanasan is a Malaysian national and the permanent resident of Singapore (SPR). He has added further that the petitioner has been working as an Engineer at M/s.Flowserve Pte. Ltd., According to Mr.Sivakumar, the detainee Vishnupriya is the wife of the petitioner and she was working along with the petitioner at M/s. Keppel Shipyard Limited as an Engineer (HULL) until the petitioner had recently switched over to M/s.Flowserve Pte. Ltd., from 03.05.2016. Mr.Sivakumar has also argued that, after coming to know about the love affairs between the petitioner and the detainee, the respondents 3 and 4 had subjected her to torture and they had not even allowed her to attend the work and she was also subjected to physical assault by branding on her both hands. Further, they had put pressure on her to resign her job and they had also destroyed her passport and other related documents. Owing to this reason, the detainee had lodged a complaint before the Singapore Police on 21.01.2015 and 23.02.2015. He has also added that the detainee had suffered a lot at the hands of the third respondent and relatives and urged this Court to let the detainee to go along with the petitioner.

11. We have considered the submissions made by Mr.S.Prabhakaran, learned senior counsel for respondents 3 and 4 as well as by Mr.S.Sivakumar, learned counsel for the petitioner. We have also considered the submissions made by Mr.V.M.R.Rajentren, learned Additional Public Prosecutor appearing for the respondents 1 and 2.

12. Having taken into consideration all the relevant facts and circumstances, we are of the view that it cannot be heard to say that the petition is not maintainable as argued by Mr.Prabhakaran, because the petitioner has mainly sought a direction as against the third respondent, being the father of the detainee, to produce the detainee Vishnupriya, who is said to be in his illegal custody. In his affidavit, the petitioner has

not suppressed anything with regard to his domicile. In this connection, he has stated that he is residing at No.148, MEI Ling Street, 03-111/140148, Singapore and at present residing at Park Inn, No.37, Geetha Hall Road, Coimbatore and temporarily came down to Chennai for the purpose of filing this petition.

13. Keeping in view of the above facts, we do not find fault with the maintainability of this petition as argued by Mr.S.Prabhakaran. As aforesaid, we have considered the statements made by the detinue and since she is a matured girl and attained majority and possessed with the qualification of Bachelor Degree in Mechanical Engineering, we are of the view that she is having every right to place her in the state of freedom and it shall not be curtailed unless there are reasons to be recorded. As guaranteed under Art. 21 of the Constitution of India, her personal liberty is to be protected.

Accordingly, the detinue Vishnupriya is set at her liberty, as per her wish and since, no further order is necessary, this Habeas Corpus Petition is closed. If the detinue feels that she is insecure and apprehends danger at the hands of respondents 3 and 4, she is at liberty to approach the second respondent and the second respondent is also directed to provide necessary protection on the approach made by the detinue.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

gpa

To

1. The Commissioner of Police
Coimbatore

2. The Inspector of Police
All Women Police Station
Thuidyalor, Coimbatore

3. The Public Prosecutor
High Court, Madras.

+lcc to Mr.S.Sivakumar, Advocate, S.R.No.6862 (06.02.2017)

+lcc to Mr.S.Mohanasundararajan, Advocate, S.R.No.7205(08.02.2017)

H.C.P.No.1377 of 2016

GJ II(CO)

CA(03/02/2017)