

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 10.04.2017

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

H.C.P No.2604 of 2016

Tmt.Preethi

.. Petitioner

Vs

1. The Commissioner of Police,
Salem District,
Salem
2. The Superintendent of Police,
Salem District, Salem
3. The Inspector of Police,
Ammamet Police Station,
Salem District
4. The Inspector of Police,
Valapadi Police Station,
Salem District
5. Shanmugam

.. Respondents

Habeas Corpus Petition filed under Article 226 of the Constitution of India to issue a writ or orders or direction, particularly in the nature of Writ of Habeas Corpus, directing the respondents 1 to 4 herein to produce the detenu Durai Murugan, S/o Shanmugam, now

illegally confined by the 5th respondent herein, before this Court and set him at liberty.

For Petitioner : Mr.T. Sankarasubbu
For respondents : Mr.V.M.R. Rajentren
1 to 4 Additional Public Prosecutor
For 5th respondent: Mr.R. Rajarajan

ORDER

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

The petitioner claims to be the wife of one Durai Murugan, S/o Shanmugam. According to the, the petitioner, she was doing B.A. English Literature in Vysya College at Salem. Mr. Durai Murugan was doing a different degree in the same college. According to her, for about two years, they loved each other and ultimately, activated by deep love between them, they decided to marry. Accordingly, on 7.10.2016, in a temple at Salem, according to the petitioner, they married and started living together as husband and wife. It is further alleged that on 28.10.2016, he was abducted by his family members. The father of the detenu made a complaint to the police, based on which, a case was registered in Cr.No.608 of 2016 for "Boy missing". Thereafter, it is alleged that with the connivance of the local police,

the detenu was taken back by the fifth respondent and he has been illegally detained by him. Since her request was not considered, according to her, she was forced to file this habeas corpus petition.

2. On 22.03.2017, this Court passed the following order:

"Today, when the habeas corpus petition was taken up, the detenu on his own appeared before this Court. He was assisted by his counsel Mr.R. Rajarajan. He told us that he had fallen in love with the petitioner and married her. He further admitted that he lived with her as her husband for 25 days. However, he submitted that, thereafter, he returned to his parental home and he has been living with his father. He further told us that he is not willing to live with the petitioner.

2. The father of the detenu also made appearance. He told us that since he is a rich man and his son also considerably a rich person, he had been stealthily taken by the petitioner and her mother and marriage was celebrated against the wishes of the detenu.

3. The petitioner appeared before us along with her father and mother. She told us that out of love, the detenu married her on his own and lived with her as her husband for 25 days. She further told that this Court should compel the detenu to take her back and to live with her as her husband.

4. When the proceedings was held in the pre-lunch session, the learned counsel on either side submitted that some time could be given for the parties to arrive at a settlement. We, therefore, passed over the matter to post lunch session. During post lunch session, the parties again appeared. The petitioner was inconsolable. She shed tears profusely non-stop. She vailed as to how to live when the detenu has cheated her after having had marital life with her for about 25 days. She wanted to speak to the detenu. We permitted her. She further stated that she would not go with her parents. Visibly she was found to be under severe depression.

5. The learned counsel
Mr.R. Sankarasubbu appearing for the

petitioner submitted that the case could be adjourned to some other date so that the parties could think over the matter further.

6. *Considering the fact that the petitioner is under severe depression and she weeps inconsolably and cries in court, we concede to the request of the learned counsel appearing for the petitioner. Accordingly, we adjourn this case to 10.04.2017. On that date, the petitioner her mother, father as well as the detenu and his father shall be present in Court. Call the matter on 10.04.2017.*

3. Today, the detenu appeared before this Court along with his father. The petitioner appeared with her mother and father. We enquired them. The petitioner wants the detenu to return to matrimonial life. She made a request to the detenu, but he refused. The detenu told that by force, the marriage was celebrated. Thus, he is not willing to live with the petitioner. But, it is not disputed that he lived with her as her husband and had sexual relationship with her.

4. In our considered view, it is for the police to thoroughly

investigate the matter and to find out whether any offence has been committed by the detenu or anybody else, if so, alter the case and accordingly, take action against the culprit.

5. Sofar as the custody of the detenu is concerned, since he is major and he wants to live with his parents, we are unable to pass any order. With the above observation, the habeas corpus petition is closed. The petitioner is at liberty to make a complaint upon which, the Inspector of Police shall register a case and take appropriate action if he finds that any offence has been committed by the detenu.

(S.N.J.,) (A.S.M.J.,)
10.04.2017

Speaking order/non-speaking order

Index : Yes/no

Internet : Yes/no

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4. The Inspector of Police,
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5. The Public Prosecutor,
High Court, Madras.

S.NAGAMUTHU,J.,
And
ANITA SUMANTH,J.,

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