

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.03.2017

CORAM

THE HONOURABLE MR. JUSTICE S.MANIKUMAR
and
THE HONOURABLE MR. JUSTICE M.GOVINDARAJ

H.C.P. No.2671 of 2016

P.R.Venkatraman .. Petitioner

Vs.

1.The Superintendent of Police
Namakkal District

2.The Inspector of Police
Namakkal Police Station
Namakkal

3.S.M.R.Pari .. Respondents

Petition under Article 226 of the Constitution of India,
praying for issuance of Writ of Habeas Corpus directing the
third respondent to produce the detainee Roesmi D/o.Pari,
female/aged about 23 years and set at liberty.

For Petitioner :: Mr.K.T.S.Sivakumar

For Respondents :: Mr.V.M.R.Rajentren,
Addl. Public Prosecutor

O R D E R
(Made by S.MANIKUMAR, J.)

Claiming himself to be the sister son of third respondent
and lover of Roesmi, aged about 23 years, writ of habeas
corpus, is filed against respondent No.3, who is none other
than, Roesmi's father. Supporting the prayer sought for,
petitioner has contended that the alleged detainee called him
over phone and submitted that respondent No.3 is making
arrangements for her marriage contrary to her wishes. The
petitioner has also alleged that the detainee had told him that

if there is any marriage between the writ petitioner and the detinue, parents would kill her, by mixing some poisonous substance in the food. In the above said circumstances, on 30.11.2016, a complaint was lodged with the Inspector of Police, Namakkal Police Station, Namakkal, in CSR No.508/2016. Left with no other alternative, writ of habeas corpus is sought for.

2. Upon notice, respondent No.3, father, in his counter affidavit, has stated that his daughter had studied B.Tech., Degree in Bio Engineering, in Vivekananda College of Engineering for Women, in Tiruchengode and graduated in 2015. She has studied German language, for a year at Mysore. He has denied the contention of any affair. He has also denied the contention of illegal detention and confining her, in a room. Allegation that marriage arrangements have been made contrary to the wishes of the detinue, are denied. On the basis of a true copy of an affidavit dated 01.02.2017 of Rashmi Pari, alleged detinue, daughter of Mr.R.Pari/respondent No.3, submission has been made that from October 2016, she is pursuing her Master's degree of Bio Technology in Germany.

3. Disputing the contentions of respondent No.3, writ petitioner has filed an additional affidavit contending inter alia that the alleged detinue is in India, and not in Germany. He had spoken to her over phone on 10th and 11th of February. It is the further statement of the writ petitioner that the alleged detinue had told him that she was sent to Germany only to get the above affidavit. She is not pursuing her study in Germany and returned to India. On the basis of the above averments, submissions have been advanced.

Heard the learned counsel for the parties.

4. Though rival contentions have been made on the aspect of alleged illegal detention, in similar circumstances, following the judgements of the Hon'ble Kerala High Court in Dr.Lal Parameshwar Vs. Ullas N.N.Nadupurakkal and others, reported in 2014 CrI.L.J. 1921 and Prasadhkumar Vs. Ravindran, reported in 1992 (1) KLT 729, a Hon'ble Division Bench of this Court in the matter of M.Senthil Muthu Vs. The Superintendent of Police, Dindigul District and 5 others, in H.C.P.No.118/2014 dated 22.09.2014, to which one of us (S.Manikumar,J.) is a member, has dismissed the said writ petition. On the facts and circumstances of the present case, we deem it fit to extract the decisions stated supra.

"5 This Court deems it fit to extract observation from the judgment of the Hon'ble Division Bench of Kerala High Court in Dr.Lal Parameshwar vs. Ullas N.N.Nadupurakkal and others, reported in 2014 CrI.L.J. 1921.

"We agree that like in any other sphere of life, there has been changes in the social and moral values. Ours is a society which has recognised freedom to every citizen. But then, these changes that we proudly talk about, and the liberties that are guaranteed to our citizens, cannot be stretched beyond limits nor can such freedom be made weapons to destroy our fundamental values or social establishments like families, which, undoubtedly, concede authority on parents to advise and guide their children. We cannot accept as a general principle that the parents are in all circumstances, bound to concede absolute decisional autonomy to their children, even if they have attained majority and remain helpless even in situations where their wards have taken wrong and immature decisions, which will be disastrous not only to the wards themselves but also to the family itself. Such parental authority, except in cases such as those pointed out by the Chancery Division and approved in Sadanandan's case, should be out of bounds for a writ court, because it is exercised for the ultimate benefit of the ward. It may be to the dislike of the ward, who may resist it and even turn hostile to the parents. But, such immature reactions should not be allowed to influence our judgment, since the ultimate aim and purpose of all these exercise is the welfare of the ward. This Court therefore should, except in extra ordinary situations, loathe interference in cases where the natural parental authority is exercised to the dislike of a lover or even the ward. For these reasons, we find ourselves unable to follow the judgment in Rajmohan's case (supra) and would follow the earlier judgments."

6 In the decision reported in Prasadkumar v. Ravindran (1992 (1) KLT 729) it is stated thus:

"It cannot be said that having control and supervision of an aged girl by the parents will amount to illegal custody warranting the issue of a writ by this Court. Parents will naturally be interested in the welfare of their children and unless there are extraordinary circumstances, normally they will be the proper persons to take decisions concerning the career and future of

their children. Parents will be entitled to have control over the children, especially if they are daughters, to protect them from the vagaries of adolescence."

7. For the reasons, stated supra, the Writ of Habeas Corpus Petition is dismissed. No costs."

5. According to the petitioner, he is sister's son of respondent No.3. In the light of the decisions stated supra, vis-a-vis parent and sister's son rights, this court deems it recognise the right of a parent. At this juncture, it is to be noted that it is the specific case of the father that she would continue her studies in Germany for the next two years and thereafter, her future would be decided.

In the light of the above decisions and discussion, we are not inclined to issue a writ of habeas corpus. Accordingly, Habeas Corpus petition is dismissed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

asr

To

1.The Superintendent of Police
Namakkal District

2.The Inspector of Police
Namakkal Police Station
Namakkal

3.The Public Prosecutor,
High Court, Madras. सत्यमेव जयते

+1cc to Mr.K.T.S.Siva kumar, Advocate, S.R.No.13605

+1cc to Mr.Natesan, Advocate, S.R.No.136

GJII(CO)
RS(14/03/2017)

HCP.No.2671 of 2016