



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.12.2017

CORAM:

WEB COPY

THE HONOURABLE MR. JUSTICE R. SUBBIAH
AND
THE HONOURABLE MR. JUSTICE A.D. JAGADISH CHANDIRA

H.C.P. (MD) No.1317 of 2017

Aji Arul : Petitioner

Vs.

1. The Superintendent of Police,
Kanyakumari District, Nagercoil.

2. The State rep. by
the Inspector of Police
Manavalakurichi Police Station
Kanyakumari District

3. Mohamed Asin : Respondents

PRAYER: Petition is filed under Article 226 of the Constitution of India praying for the issue of a Writ of Habeas Corpus, to direct the respondents to secure the detenus or her corpus namely, Mrs. Jospin Asha, W/o. Aji Arul and Athesh, S/o. Aji Arul who are petitioner's wife and son, aged about 36 and 5 years respectively and earlier residing at Arulananthan Colony, Periyavilai, Manavalakurichi, Kanyakumari District from the illegal detention of the third respondent and subsequently produce them before this Court and later set them at liberty forthwith.

For Petitioner	: Mr. S. Palani Velayutham
For Respondents	: Mr. C. Ramesh for R1 & R2
	Additional Public Prosecutor
For R3	: No appearance

ORDER

[Order of the Court was made by R. SUBBIAH, J]

The petitioner is the husband of the 1st detenu, viz. Jospin Asha, aged 36 years and father of the 2nd detenu, viz., Athesh, aged 5 years. It is alleged in the affidavit that the detenus, namely, the wife and son of the petitioner herein were residing along with the petitioner at Manavalakurichi. While so, they went missing from 27.07.2017. In this regard, the petitioner lodged a complaint with the 2nd respondent to trace his wife and son. On receipt of the complaint, a case in Crime No.163/2017 was registered on 28.07.2017. Since no effective steps were taken, the petitioner is before this Court.



2. When the matter was taken up for consideration, the learned Additional Public Prosecutor submitted that it is only a matrimonial dispute.

3. The learned counsel for the detenu submitted that the detenu has filed IDOP for divorce in IDOP No.252 of 2016 before the Principal District Court, Kanyakumari District.

4. In view of the above submissions, we are of the view that absolutely, there is no illegal custody and it is only a matrimonial dispute between the husband and wife. However, suppressing the pendency of IDOP, the petitioner has filed the present petition. Therefore, the petitioner is not entitled to any relief in this Habeas Corpus Petition. Accordingly, the Habeas Corpus Petition is dismissed.

Sd/-
Assistant Registrar (CSI)

/True Copy/

Sub-Assistant Registrar

To

1. The Superintendent of Police,
Kanyakumari District,
Nagercoil.
2. The Inspector of Police
Manavalakurichi Police Station
Kanyakumari District
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

RR
RL/4C/2P/SKN/RSK/SAR4/28/12/2017

Order made in

H.C.P. (MD) No.1317 of 2017