



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.02.2017

CORAM:

THE HONOURABLE MR.JUSTICE **R.SUBBIAH**

AND

THE HONOURABLE MRS.JUSTICE **J.NISHA BANU**

H.C.P.[MD].No.165 of 2017

P.Jasmine Jose

: Petitioner

Vs.

1.The Superintendent of Police,
Theni District, Theni.

2.The Inspector of Police,
Thevaram Police Station,
Thevaram Post, Theni District.

3.Rayappan

4.Mariyammal

: Respondents

PRAYER: Petition is filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, directing the first and second respondents to produce the person or body of the detenu by name Arockiaraj (aged about 33 years), son of Rayappan before this Court and set him at liberty.

For Petitioner : Mr.C.Ganesh Kumar

For Respondents 1&2 : Mr.K.S.Duraipandian

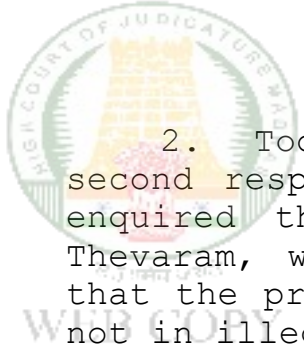
Additional Public Prosecutor

For Respondent No.3 : Mr.P.Banuprasath

O R D E R

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

The petitioner is the wife of the detenu - Arockiaraj, Son of Rayappan, aged about 33 years. She has filed the present Habeas Corpus Petition stating that the marriage between her and the detenu was solemnized on 27.01.2013 and they were living as husband and wife happily and due to wedlock, two female children were born. Subsequently, due to misunderstanding, some dispute arose between them and both of them were separated. The husband of the petitioner, the detenu herein, has filed I.D.O.P.No.13 of 2015 for restitution of conjugal rights before the Principal District Court, Theni. The petitioner further submits that she is ready to live along with the detenu, but, his whereabouts was not known to her. Hence, she lodged a complaint on 27.01.2017 before the first and second respondents. However, no action has been taken to trace out the detenu so far. Hence, she is before this Court with the present petition.



2. Today when the matter was taken up for consideration, the second respondent produced the detenu before this Court. When we enquired the detenu, he told us that he is only residing at Thevaram, where the petitioner is also residing. He further told that the present petition was filed with false averments and he is not in illegal custody of anybody.

3. The petitioner is not present. The learned counsel for the petitioner submitted that the petitioner was not informed. But the learned Additional Public Prosecutor has denied the said fact stating that the petitioner was already informed.

4. Be that as it may, admittedly, it is a matrimonial dispute between the parties and thus, the Habeas Corpus Petition is not maintainable. Since the detenu is not in illegal custody of anyone, we close the Habeas Corpus Petition as nothing survives for adjudication. However, the petitioner is at liberty to work out her remedy before the competent Court.

Sd/-

Assistant Registrar(P&A)

/TRUE COPY/

Sub Assistant Registrar

To

1.The Superintendent of Police,
Theni District, Theni.

2.The Inspector of Police,
Thevaram Police Station,
Thevaram Post, Theni District.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 cc to MR.P.Banuprasath, ADVOCATE, SR NO:8743

+1 cc to MR.C.Ganesh Kumar,ADVOCATE, SR NO:8881

Order made in
H.C.P.[MD].No.165 of 2017
Dated: 16.02.2017

SML

SVA/MR/28.02.2017/2P/6C