



8.The Chief Immigration Officer,
Office of the Chief Immigration Officer,
No.26, Shastri Bhavan Annexure, Haddows Road,
Nungambakkam, Chennai 600 034. : Respondents

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R-6 to R-8 impleaded vide order dated 20.02.2017 made in CrI.MP.
(MD).No.1490 of 2017]

PRAYER: Petition is filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, directing the respondents to produce the person or body of the petitioner's daughter, namely, M.Sabana @ Rima Khatun [40/17], W/o.Papplu, before this Court and set her at liberty.

For Petitioner : Mr.T.Lajapathi Roy

For Respondents 1to 4: Mr.B.Pugalendhi
Additional Advocate General
Assisted by Mr.K.S.Duraipandian
Additional Public Prosecutor

For Respondent No.5 : No Appearance

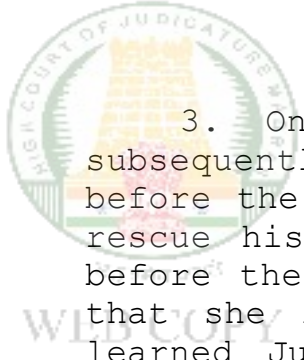
For Respondent Nos.6to8 : Mr.S.Shanmugaselvam

O R D E R

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

The present Habeas Corpus Petition has been filed by the father of the detenu, seeking a Writ of Habeas Corpus, directing the respondents to produce the person or body of the petitioner's daughter, namely, M.Sabana @ Rima Khatun [40/17], W/o.Papplu, before this Court and set her at liberty.

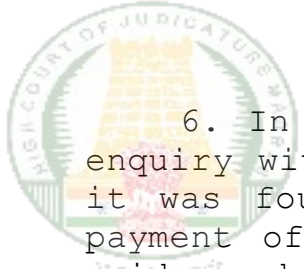
2. According to the petitioner, his daughter, namely, M.Sabana @ Rima Khatun, obtained six months tourist visa from Bangladesh from 24.04.2016 to 23.07.2016. Her daughter came to India, on 02.05.2016, to meet her sister, who is residing in Mumbai and thereafter, she came to Kanyakumari to visit the tourist places. On 23.07.2016, a case in Crime No.123 of 2017, on the file of the fourth respondent police was registered against the daughter of the petitioner for the alleged offences punishable under Sections 3(1), 4(2)(c), 5(1)(a), 6(1)(a), 7(1)(a) of the Immoral Traffic (Prevention) Act, 1956 and thereafter, she was arrested and remanded to judicial custody and the case is now pending before the learned Judicial Magistrate No.I, Nagercoil. The personal belongings of the daughter of the petitioner, viz., a sum of Rs.3,000/-, a mobile phone and a pair of silver anklets are with the fourth respondent police.



3. On coming to know the above facts, the petitioner, subsequently, came to India and filed CrI.M.P.No.4830 of 2016 before the learned Judicial Magistrate No.I, Nagercoil, seeking to rescue his daughter. On 03.01.2017, his daughter gave deposition before the learned Judicial Magistrate No.I, Nagercoil, narrating that she is a victim and she did not commit any offence. The learned Judicial Magistrate, after obtaining statement from the daughter of the petitioner, passed an order that the learned Chief Judicial Magistrate may take necessary steps to rescue her daughter. However, the Chief Judicial Magistrate referred the matter to the third respondent herein. Since the third respondent did not take any steps to rescue his daughter, the petitioner has come up with the present Habeas Corpus Petition.

4. Today, when the Habeas Corpus Petition is taken up for consideration, the fourth respondent filed a counter affidavit, wherein it has been stated that on 23.07.2016, during prevention of immoral trafficking raid, the police arrested five accused at Green Palace Lodge and produced them before the Learned Judicial Magistrate No.I, on 23.07.2016. The detenu, M.Sabana, has stated that the women involved in the offence were treated as 'victims' and they were produced before the Learned Judicial Magistrate No.1, Nagercoil, on 24.07.2016. At the time of production before the learned Judicial Magistrate, the detenu has stated that she was a resident of Bangalore. Even though she is a major and she had none to take care, with a view to ensure protection till she is claimed by a relative and in order to extend protection to her, on the orders of the learned Judicial Magistrate No.1, Nagercoil, she was admitted in the fifth respondent Government Home, Nagercoil from 24.07.2017.

5. It has been further stated in the counter affidavit that one Mr. Shamsel Shaik alleged to be the father of the above said victim, filed a petition before the Learned Judicial Magistrate No.1, Nagercoil, seeking her custody, on the ground that they are ordinary residents of Bangladesh and that his daughter - Rima Khatun came to India on a valid visa and they intend to leave India. In fact, the detenu had not even mentioned her correct name. It has also been stated that the tourist visa of the detenu got expired on 23.07.2016 and therefore, she was produced before the Court and on such production, the Learned Judicial Magistrate No.1, Nagercoil, directed the Superintendent of Police, Kanyakumari, to take necessary and appropriate action to get extension of visa for the above said victim through the Chief Judicial Magistrate, Kanyakumari. The Superintendent of Police, Kanyakumari, by his proceedings in reference No.D1/3236/2017, dated 27.02.2017, has informed that if 'C' Form, Exit permit form, is sent through online along with the payment chalan in respect of ~~overseas courier and~~ the detenu and the ticket, further action will be taken.



6. In the counter affidavit, it has also been stated that on enquiry with the Foreigner Regional Registration Officer, Chennai, it was found that the visa holder has right to leave India on payment of penalty for the over stay and that the amount can be paid anywhere in India before his actual departure from India. As per the revised Travel arrangements between India and Bangladesh, the Indian and Bangladeshi nationals, holding valid travel document, will be required to leave one counter and enter the other only through designated check posts and both sides agreed that corresponding check-posts of two countries should be located as near as possible to each other.

7. Insofar as the registration is concerned, nationals of one country, visiting the other country on a valid visa, who wish to stay for a continuous period exceeding six months will be required to register within 14 days of arrival with the respective FRRO/relevant authorities and obtain residential permit. Insofar as the case of the detenu is concerned, since her visit is within six months, she need not register with the Superintendent of Police, Kanniyakumari. If she intends to obtain Exit Visa, she has to upload her Passport, Visa details in the prescribed format along with a sum of Rs.7,880/- as a penalty for her over stayal and in such a case, the Superintendent of Police, Kaniyakumari, will submit proposals to the FRRO, Chennai, for regularizing her over-stay and to grant her Exit Visa. While concluding, the fourth respondent, in the counter, has stated that it would be open to the detenu to seek for regularization of her over stay and Exit Visa. Since the detenu was kept only for her protection at the fifth respondent home under the lawful order of the learned Judicial Magistrate No.I, Nagercoil, the Court may pass appropriate orders to hand over the detenu to the custody of her father.

8. After hearing the submissions made by the learned counsel for the parties, this Court passes the following Order:-

The petitioner is directed to submit 'C' Form, Exit permit form, through online along with the payment Chalan in respect of over stayal of the detenu before the third respondent and on receipt of the same, the third respondent is directed to consider the same and pass appropriate orders with regard to the grant of Exit Permit to the daughter of the petitioner, the detenu herein, within a period of three days from the date of receipt of Exit Permit form.

9. At this juncture, the learned counsel for the petitioner submitted that the personal belongings of the detenu, viz., a sum of Rs.21,000/-, Rs.3,000/-, a mobile phone and a pair of silver anklets are with the fourth respondent police and therefore, a device to return the above properties.



10. However, it is represented by the learned Additional Advocate General for the respondents 1 to 4 that the above properties have already been deposited before the learned Judicial Magistrate No.I, Nagercoil and therefore, the petitioner may approach the said Court seeking return of the properties.

11. In view of the above submission made, the petitioner is at liberty to move the said Court for return of properties. The Habeas Corpus Petition is disposed of on the above terms.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar

To

- 1.The Home Secretary to Government,
Department of Home, Secretariat,
Fort.St.George, Chennai.
- 2.The Director General of Police,
Office of the Director General of Police,
Kamarajar Salai, Mylapore, Chennai 05.
- 3.The Superintendent of Police,
Office of the Superintendent of Police,
Kanyakumari District.
- 4.The Inspector of Police,
Kanyakumari Police Station,
Kanyakumari District,
- 5.The Secretary,
Ministry of External Affairs,
E Block, Janpath Road,
Rajpath Area, Central Secretariat,
New Delhi 110 011.
- 6.The Ministry of External Affairs,
Represented by the Secretary,
No.68, College Road,
EVK Sampath Maligai, 7th Floor,
Nungambakkam, Chennai 600 034.
- 7.The Chief Immigration Officer,
Office of the Chief Immigration Officer,
No.26, Shastri Bhavan Annexure, Haddows Road,
Chennai 600 034.



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

9.Surekhash Community Centre for Women and Girls Home,
Thottiyodu,
Chungankadai post,
Thiruvananthapuram Road,
Kaniyakumari District-629 807.

+1cc to Mr.T.Lajapathi Roy,Advocate, Sr No.12333.

ORDER MADE IN
H.C.P.[MD].No.19 of 2017
03.03.2017

KK/CM-MSA/SAR3/3.3.2017/6P.11C