

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.06.2018

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAN
AND
THE HONOURABLE MRS.JUSTICE S.RAMATHILAGAM

H.C.P. No.141 of 2017

M.Neelavathi

..Petitioner

/Versus/

1.The State of Tamil Nadu rep. by its
District Superintendent of Police,
O/o. District Superintendent of Police,
Nagapattinam.

2.State rep. by the Inspector of Police,
Perambur Police Station,
Nagapattinam District.

3.M.Prasanth

..Respondents

Petition filed under Article 226 of the Constitution of India for the issuance of a writ of Habeas Corpus to direct the respondents 1 and 2 to produce the detenu M.Sudhakar S/o.Mariappan from the illegal custody of the 3rd respondent before this Court and restore the legal custody of the detenu.

For Petitioner : Ms.Ageselizabeth
for M/s.K.M.Vijayan Associates

For Respondents 1 & 2: Mr.Ravichandran,
Government Advocate (Crl.Side)

For 3rd Respondent : Mr.M.Subash

COMMON ORDER

(Order of the court was made by S.RAMATHILAGAM, J.)

The Habeas Corpus Petition has been filed seeking to direct the respondents 1 and 2 to produce the detenu M.Sudhakar S/o.Mariappan from the illegal custody of the 3rd respondent before this Court and to restore the legal custody of the detenu.

2. According to the petitioner, the mother of the detenu Sudhakar, in order to eke out their livelihood after the demise of her husband, on the promise of the 3rd respondent herein, namely, M.Prasanth, she sent the detenu, her son to Trichy for the purpose of Manson Work and thereafter, there was no information from the detenu. But, through the 3rd respondent, the petitioner came to know that the detenu was working at Perambalur. While so, the petitioner did not receive any call from the 3rd respondent who purposefully evaded the phone calls of the petitioner. Thereafter, though the petitioner has made several attempts to meet her son, the 3rd respondent evaded to answer about the whereabouts of the detenu. Therefore, the petitioner preferred a complaint before the 2nd respondent which was registered in FIR No.103/2016 on 23.03.2016. But there is no progress. Hence the petitioner sent a detailed representation to various authorities on 17.06.2016 alleging that her son was in the illegal custody of the 3rd respondent. Since there is no reply for the same, the petitioner is before this Court with this Habeas Corpus Petition.

3. On notice, the 3rd respondent has filed a Status Report dated 10.02.2017 in which it has been stated that the statements recorded from the witnesses reveals that the detenu is a diabetic patient and he is in the habit of taking the injection of insulin regularly. Further, on 10.05.2015, the detenu went to his house at Kothangudi, Nagapattinam District, but, thereafter, he did not return to work and he was in good relationship with his co-workers along with the 3rd respondent herein. In spite of the efforts taken by the respondent police for the identification of the detenu by way of collecting the photos of unidentified dead bodies of the same age group of the detenu from the Tamil Nadu Police Citizen Portal and comparing them with the detenu's photo, no clue regarding his whereabouts was available.

4. An Additional Status Report dated 02.01.2018 was filed by the 2nd respondent, namely, the Inspector of Police, Perambur police Station, Nagapattinam District. In the said report, it has been stated that the then Inspector of Police has collected the information from Meensuruti Police Station in a case registered in Crime No.62 of 2016 under Section 304(A) of IPC dated 21.02.2016 and also collected the photos of unidentified dead body and compared the same with the detenu photo which was identified by the petitioner herein. Thereafter, the skull and thigh bone were sent to the Forensic Science Department, Chennai to conduct superimposition test and D.N.A. Test. Since the skull was at broken stage, the superimposition test could not be

conducted. However, the report of the DNA Test dated 18.12.2017 reveals that DNA was extracted from the above item and amplified for amelogenin i.e. sex locus and also for 15 STR loci using PCR amplified STR Technique after taking due care from the integrity of sample. From the results of analysis as shown in annexure, it is found that the bone pieces belong to a female individual. The DNA report and the report of Experiment of DNA were received by the 2nd respondent on 29.12.2017 through the Judicial Magistrate No.I, Mayiladuthurai, Nagapattinam. Thus, all the efforts taken by the respondent police by forming a Special Team went in vain.

5. Under such factual position, we are of the view that though the petitioner has given a complaint against the 3rd respondent for illegally detaining her son and a Special Team has been formed by the respondent police to trace out the son of the petitioner, they could not able to get any positive clue in respect of the said illegal detention of the detenu. That apart, the witnesses examined by the respondent police reveals that the detenu was in good relationship with all including the 3rd respondent and he left for home at Kothangudi, Nagapattinam District through Thiruchirapalli bus on 10.05.2015 and thereafter, he did not turn back. However, the 2nd respondent has stated that once the detenu is traced, he will be produced before this Court.

6. In view of all the above, the Habeas Corpus Petition stands dismissed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

सत्यमेव जयते
Sub Assistant Registrar

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To

1.The District Superintendent of Police,
O/o. District Superintendent of Police,
Nagapattinam.

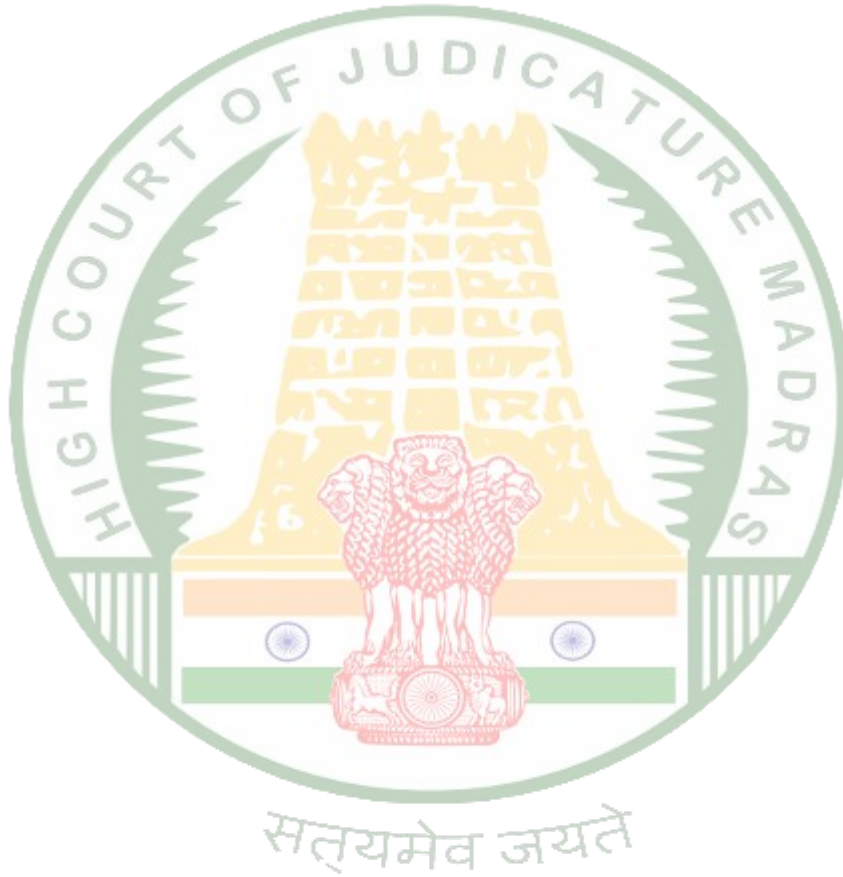
2.The Inspector of Police,
Perambur Police Station,
Nagapattinam District.

3. The Public Prosecutor,
High Court, Madras.

+lcc to M/s.K.M.Vijayan Associates, Advocate in sr.no.39514
+lcc to M/s.Karthik Sevugapperumal, Advocate in sr.no.39502

H.C.P. No.141 of 2017

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