

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.06.2018

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM
and
THE HON'BLE MRS. JUSTICE S. RAMATHILAGAM

H.C.P. No.2102 of 2017

K.Kumar

.... Petitioner

Versus

1. The Superintendent of Police,
Villupuram District.

2. The Inspector of Police,
Manalurpettai Police Station,
Villupuram District.

.... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Habeas Corpus, directing the respondents herein to produce the body or person of the detenu named Anjalai aged about 35 years sister of K.Kumar before this Court and set her at liberty forthwith.

For petitioner : M/s.T.S.Sathyaseelan
For respondent : Mr.R.Ravichandran,
Government Advocate

ORDER

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

The relief sought for in this Habeas Corpus Petition is for a direction to direct the respondents to produce the body or person of the detenu named Anjalai aged about 36 years, who is the sister of the petitioner herein before this Court and set her at liberty.

2. The petitioner has stated that he is an agricultural Coolie and his sister namely Anjalai left the home on 17.05.2017 at about 8.00 a.m. and she did not return home and the petitioner searched in many places including his relatives home and all other places, where, the detenu Anjalai would usually visit and could not find her whereabouts. The petitioner lodged a police complaint before the second respondent on 01.06.2017. Further averment is that his sister Anjalai, who is aged about

36 years is an insane person and on the day of missing, she was wearing blue colour blouse and purple colour saree and her identification is also given by the petitioner that she is wheatish brown in colour and an height about 160 c.m.

3. Based on the complaint preferred by the petitioner, the respondent has registered a case in Crime No.179 of 2017 as "woman missing" but till date, he did not take any action on the complaint.

4. The petitioner has stated that he is under apprehension that his sister Anjalai's life is in danger and he is also under mental agony, whether she is alive or not. Without finding no other alternative remedy, except to approach this Court under Article 226 of the Constitution of India, the petitioner has filed this petition.

5. The respondent police registered a case in Crime No.179 of 2017 under Section "woman missing". The process of investigation commenced by the Inspector of Police and he has filed the status report before the Court on 27.11.2017. In the said report, it was stated that the Inspector of Police visited the scene of occurrence and examined the witnesses, who are (1) Kumar, brother of the detainee and (2) another brother Arulmani and two witnesses, namely Ezhumalai and Navammal, who are neighbours of the complainant. The respondent police has also sent the photograph of the missing woman Anjalai, along with the requisition letter to the District Crime Record Bureau for sending the same all over the Tamil Nadu Police Stations, but no clue was obtained. Further steps were also taken by the respondent by publishing the details of the detainee in the Thina Thanthi news paper and made arrangement to telecast the news about the detainee missing woman along with her photograph in the local cable TV namely, Koval TV, Tirukovilur. The unidentified dead bodies of same age group of the detainee were also compared with the detainee's photo and the investigation officer visited number of places such as Cuddalore, Pondicherry, Chenglepet, Kanchipuram, Tiruvanamalai, Vellore, Tiruchirapalli, Thanjavur, Mayavaram, Nagapattinam, Salem and Government Hospital of the said districts retarded homes and surrounding areas and pamphlets were also circulated along with the details of the detainee with her photo and also pasted the same in the public gathering places by forming a special team. However, no purpose was served, still the respondent police is taking effort to trace the detainee by putting best efforts and to produce the detainee before the Hon'ble Court.

6. The additional status report also filed by the Inspector of Police, Arakandalur circle, Villupuram, district on 10.04.2018. The report reveals that the respondent deputed

Special Sub Inspector of Police, who visited in and around Ulaga alantha Perumal Temple, Arathanareeswar temple, Bus stand, Auto stand, railway station, Market by showing the photograph of the missing women Anjalai and enquired. Further on 22.01.2018, also the Sub Inspector of Police Thiru K.Sowkathalai, was deputed, who also went to the places i.e. Orphanage homes, bus stand, temples and the ashiramam and surrounding places to enquire about the missing women Anjalai. Inspite of efforts taken by the respondents by deputing police officials on various dates and also searched for the missing person in many places and even search of the detainee made with the photo of the unidentified bodies with the age group of the detainee through Criminal Tracking Network System, but no clue was obtained. The report also states that still continuous and sincere steps are being taken to trace the detainee and the detainee will be produced before the Court.

7. On perusal of the complaint, it is observed that the detainee Anjalai left the house on 17.05.2017 and she is also mentally ill person and hence, the complainant requested for securing his sister Anjalai and to produce her before this Court.

8. The preliminary issue in respect of the maintainability of the Habeas Corpus Petition is to be considered in view of the fact that there is no positive allegations or illegal detention of the detainee established in this petition. Except the fact that the detainee was found missing and the fact that she is mentally ill person, no other allegations are set out in the present Habeas Corpus Petition.

9. The Habeas Corpus Petition cannot be entertained in a routine manner. Unless there is an allegation of illegal detention or a strong suspicion with substantial proof are established, this petition cannot be entertained.

10. The status report reveals that the respondent police has formed Special Team, effective and possible steps were taken to secure the missing person Anjalai on several occasions and also continuously taking steps till date. Efforts taken by the respondent police is made clear by their status report filed before this Court on two occasions. Here in this case, there is no fact of illegal detention or atleast a suspicion in respect of such illegal detention. In the absence of any of these ingredients, no Habeas Corpus Petition can be entertained under Article 226 of the Constitution of India. The violation of fundamental right enshrined in Part III of the Constitution of India must be established for the purpose of filing Habeas Corpus Petition.

11. Clear grounds must be made out for issuance of such writ. Man / woman missing cases cannot be brought under the purview of Habeas Corpus petition. Man / woman missing cases are to be registered under the regular provisions of the Indian Penal Code and the police officials concerned are bound to investigate the same in the manner prescribed under the Code of Criminal Procedure. Such cases are to be dealt as regular cases by the competent Court of law and the extra ordinary jurisdiction of the Constitutional courts cannot be invoked for the purpose of dealing with such man / woman missing cases.

12. Based on the complaint by the petitioner, a case was registered by the respondent and effective steps have also been taken and the status report filed by the respondent reveals the fact that they are adopting proper procedure in securing the missing person.

13. In the present Habeas Corpus Petition, there is not even an iota of doubt in respect of any illegal detention nor any such allegations are made out and no cause has been established by the petitioner for the purpose of entertaining the present Habeas Corpus Petition and accordingly, the same stands dismissed.

Sd/-

Assistant Registrar(CS VIII)

//True copy//

Sub Assistant Registrar

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To

1. The Superintendent of Police,
Villupuram District.
2. The Inspector of Police,
Manalurpettai Police Station,
Villupuram District.
3. The Public Prosecutor,
Madras High Court, Chennai.
4. The Director General of Police of Tamilnadu,
Mylapore, Chennai.

H.C.P. No.2102 of 2017

SR(CO)

GN(06/07/2018)