

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 07.05.2018

CORAM

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

H.C.P.No.2087 of 2017

M.Ayyappan ... Petitioner/Petitioner

Vs.

1.The Superintendent of Police,
Villupuram

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

3.Sub-Inspector of Police,
Asanur Police Station, Ulundurpet Taluk,
Villupuram District.

4.Bakiyaraj

5.The Inspector of Police,
Muthialpet Police Station,
Chennai.

... Respondents/Respondents

(R5 Impleaded as per order
dated 02.05.2018 made in
Cr1 MP.170/18 in HCE.2087 OF 2017)

PRAYER: Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Habeas Corpus, directing the 1st to 3rd respondents to cause the protection of the body of the detenu who is K.Adhilakshmi, W/o.Ayyappan, aged about 21 years old, and produce before this Hon'ble Court and handover custody to the petitioner.

For Petitioner : Mr.S.Ramajayam

For Respondents: Mr.R.Ravichandran,
Government Advocate [R1 to R3 and R5]

O R D E R

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

The relief sought for in this Habeas Corpus Petition is for a direction to direct the respondents 1 to 3 to cause the production of the body of the detainee who is Mrs.K.Adhilakshmi, W/o.Ayyappan, the petitioner aged about 21 years and produce before this Court and handover custody to the petitioner.

2. The facts in nutshell to be considered for the purpose of deciding the present Habeas Corpus Petition is that the Wife of the petitioner, Mrs.K.Adhilakshmi was found missing from 01.11.2017 onwards. When the petitioner went to his father-in-law's house and searched about the whereabouts of his wife, the petitioner came to understand that the 4th respondent kidnapped his wife and put her in illegal custody.

3. The further allegation of the petitioner is that the 4th respondent is working in a lodge and having certain contacts with prostitute groups and therefore, there is a possibility of abuse of the said detainee. The petitioner further continued his search in nearby areas with the help of the relatives, however, the entire efforts taken by the Writ Petitioner went in vain.

4. The learned counsel appearing on behalf of the Writ Petitioner vehemently contended that the petitioner is in illegal custody of the 4th respondent. Thus, this Court must direct the respondent police to secure the detainee and produce her before this Court.

5. The learned Government Advocate appearing on behalf of the respondents 1 to 3 and 5 relying on the status report filed by the Inspector of Police said that on receipt of the complaint from the defacto complainant, a case was registered in Crime No.331 of 2017 under "Woman Missing" provision. Consequently, the process of investigation had been commenced by the Inspector of Police and during the course of investigation the police found that the 4th respondent is close relative to the detainee [son of Aunt of detainee] and after the solemnization of marriage between the petitioner and the detainee, the detainee had an illegal relationship with the 4th respondent. Further, such illegal relationship was warned by the petitioner, however, the detainee did not mind the words of her husband. During Deepavali festival, the petitioner took his wife to his native place at Sirvathur and informed about the illegal activities of the detainee with the 4th respondent in front of the elders of both the families and at that time the elders of the family warned both the 4th respondent as well as the detainee. At that point of time, the detainee also agreed that in future she will not indulge in any such activities so also the 4th respondent has

given a consent that he will not disturb the family of the petitioner. Accordingly, the petitioner came back with his wife and was living in his home.

6. The police investigation revealed that the illegal intimacy of the detinue with the 4th respondent continued ever thereafter and such an illegal intimacy was confessed by the petitioner even in his statement. Even, the FIR itself was registered on the allegation that there was an illegal intimacy between the detinue and the 4th respondent in the Habeas Corpus Petition.

7. Under these circumstances, we are unable to come to a conclusion that there is an illegal detention of the detinue, when the illicit relationship between the detinue and the 4th respondent is established even through the complaint filed by the Writ Petitioner. We have no reason to believe that there is an illegal detention. Thus the statement now made before this Court by the learned counsel for the petitioner that the 4th respondent is illegally detaining the detinue cannot be accepted. However, the regular case in Crime No.331 of 2017 under woman missing provision has already been registered by the respondent police. Thus the respondent police are directed to continue the investigation, trace out the detinue and proceed with the case registered under women missing.

4. With these observations, the present Habeas Corpus Petition stands dismissed.

Sd/-

Assistant Registrar (CO)

//True Copy//

Sub Assistant Registrar

dsa/gsa

To

- 1.The Superintendent of Police,
Villupuram
- 2.The Inspector of Police,
Ulundurpet Police Station,
Villupuram District.
- 3.The Sub-Inspector of Police,
Asanur Police Station, Ulundurpet Taluk,
Villupuram District.

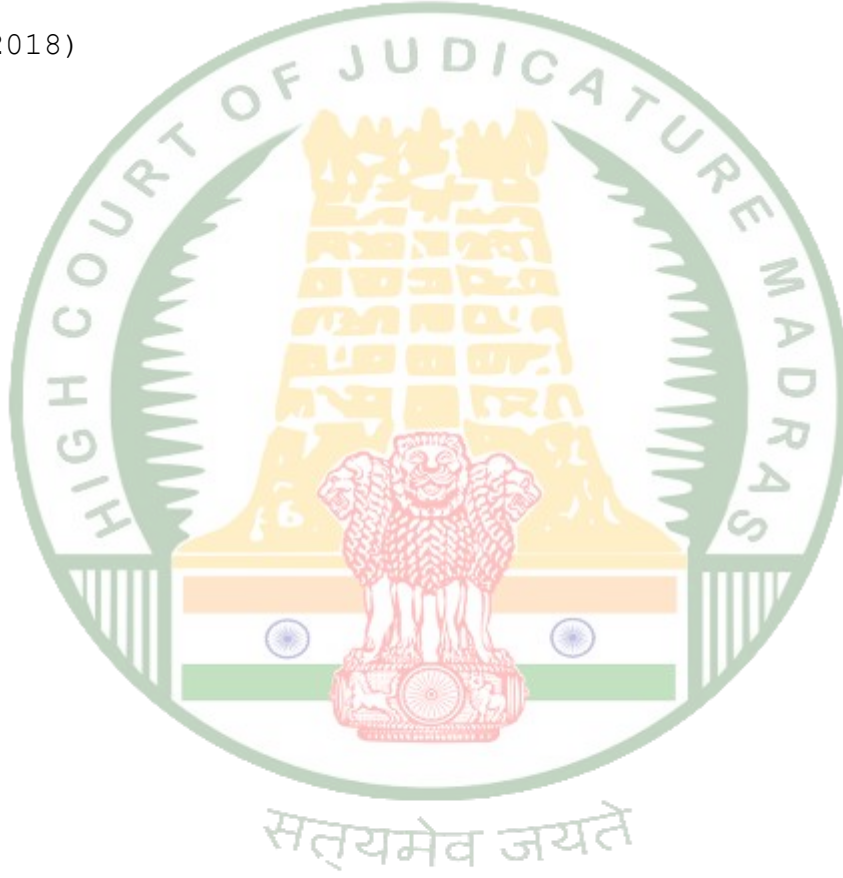
4.The Inspector of Police,
Muthialpet Police Station,
Chennai.

5.The Public Prosecutor,
High Court,Madras.

+1cc to Mr.S.RAMAJAYAM, Advocate, S.R.No. 33305

H.C.P.No.2087 of 2017

KK(CO)
TR(18/05/2018)



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