

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.544 of 2018

M.Chinnadurai

... Petitioner

Vs

The State rep. by
The Inspector of Police,
S-5, Pallavaram Police Station,
St. Thomas Mount,
Chennai.

... Respondent

Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS to direct the respondents to produce the petitioner's son C.Pathimagan, aged 39 years, before this Hon'ble Court and hand over him to the petitioner.

For Petitioner : Ms.V.Anusha

For Respondent : Mr.R.Ravichandran
Government Advocate

O R D E R

[Order of the Court was made by S.M.SUBRAMANIAM, J.]

The present Habeas Corpus Petition has been moved to secure the body or person of one Mr.C.Pathimagan, aged about 39 years, before this Court and set him at liberty.

2.The father of the detenu filed the present Habeas Corpus Petition stating that his son Mr.C.Pathimagan, aged about 39 years, was employed in Dubai for about 15 years. The detenu was living with his wife and two minor children, aged about 7 years and 9 years in Dubai. The detenu was the sole breadwinner of his family. The son of the petitioner was running a supermarket in the name and style of Kushi Supermarket in Dubai. Unfortunately, the son of the petitioner sustained a huge

monetary loss in his business and closed down his supermarket. He could not able to continue business any further. Thus, he left Dubai on 27.01.2018 and return back to India. The wife of the detenu and the family members are unable to reach the detenu through phone, since the same was switched off. Thus, the petitioner is constrained to lodge a complaint on 26.02.2018 and the same was registered in Crime No.131 of 2018.

3.The learned Government Advocate appearing on behalf of the respondent Police relying the Status Report filed by Mr.S.Saravanan, Inspector of Police,S-5 Pallavaram Police Station, St. Thomas Mount, Chennai, has stated that the Police has taken all possible steps to trace out the detenu. They proceeded with the investigation by examining the petitioner, wife of the detenu, brother of the detenu, father-in-law, sister and servant of the detenu's partner at Chennai. Apart from this, the business partner of the detenu was also examined by the Police. Apart from this, the business partner of the detenu was also examined by the Police. During the course of investigation, the respondent Police found that the detenu met with a huge financial loss to the tune of about Rs.1Crore in his business. The detenu brought his car near his house and handedover the key to his wife and informed that he is going to Bujara to collect money from one person. The detenu's wife also checked her bank account and found that Rs.10,000/- was withdrawn from ATM by the detenu. Subsequently, the detenu sent a whatsapp message to his wife and asked her to come back to India along with children. The very same whatsapp message had also been sent to the brother of the detenu and to his sister. However, none of them are unable to trace out the whereabouts of the detenu. Subsequently, the Police continued the investigation by following the regular procedure of sending requisition to the Assistant Director General, UIDAI Regional Office and after on such verification, in respect of the efforts taken by the respondent Police, they are unable to get any clue about the detenu.

4.We are of the considered opinion that there is no element of illegal detention in this case. What is stated in the complaint as well as in the affidavit filed in support of the present Habeas Corpus Petition is that, the detenu sustained huge monetary loss in his business and left Dubai and came back to India. Under these circumstances, the illegal detention cannot be presumed.

5.During the course of examination of the wife of the detenu, she deposed that the detenu through message replied once, that he will come back to home after one year. Through the statement, a factual inference can be drawn that the detenu is not in illegal detention of any other person. However, the

respondent Police is duty bound to continue the investigation, in respect of the case registered in Crime No.131 of 2018.

6.In view of the fact that the writ petitioner has not established the prima facie case, in respect of any illegal detention, we are not inclined to keep the present Habeas Corpus Petition pending. Thus, the respondent Police is directed to continue the investigation in the manner known to law. Further, there is no allegation of illegal detention or even a suspicion is established by the petitioner so as to entertain the Habeas Corpus Petition for the purpose of granting the relief as such sought for. Thus, the Habeas Corpus Petition stands dismissed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

To

1.The Inspector of Police,
S-5, Pallavaram Police Station,
St. Thomas Mount,
Chennai.

2.The Public Prosecutor,
High Court, Madras.

+1cc to M/S.V.Anusha, Advocate Sr.39646

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