



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.01.2018

CORAM:

THE HONOURABLE DR. JUSTICE S.VIMALA
AND
THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI

HCP [MD].No.31 of 2018

J.Madhankumar : Petitioner

Vs.

1.The Superintendent of Police,
Theni, Theni District

2.The Inspector of Police,
Kombai Police Station
Theni District

3.R.S.Palaniram

4.P.Kalaiyarasi : Respondents

PRAYER: Habeas Corpus Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Habeas Corpus to direct 1st and 2nd respondents to produce the person or body of the detenu namely, Tharani, aged about 31 years, W/o.J.Madhankumar, and Minor Kavidharan, aged about 5 years, S/o.J.Madhankumar, and produce them before this Court and hand over their custody to the petitioner herein.

For Petitioner : Mr.P.Kottaichamy

For Respondents : Mr.C.Ramesh

Additional Public Prosecutor

ORDER

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

This petition has been filed for production of the two detenues, namely, Kavidharan, who are the wife and the child of the petitioner and also for setting them at liberty.

2. According to the petitioner, the marriage between the detenu Tharani and the petitioner took place in the year 2010 and out of the legal wedlock, the minor detenu was born. While so, it is his case that she left the matrimonial home on her own accord along with the child and they are in the custody of the respondents 3 and 4, the parents of the detenu/wife, who are preventing the petitioner from seeing them. Therefore, the petitioner preferred a complaint to the respondent police on 12.12.2017. Since, no effective steps



were taken to secure his wife and child, the petitioner is before this Court.

3. The learned Additional Public Prosecutor representing the State has submitted that already the wife of the petitioner has moved the family Court, Uthamapalayam in HMOP No.211/2017 for divorce.

4. In view of the above submission, it cannot be said that the detenus are in the illegal custody of the respondents 3 and 4 and therefore, this Habeas Corpus Petition is not maintainable. Accordingly, this petition is dismissed.

5. At this juncture, the learned counsel for the petitioner would make a plea that the detenu/wife is being prevented by her parents/respondents 3 and 4, from joining the petitioner/husband and if the matter is referred to the Mediation Centre, there is every possibility of his wife joining the petitioner/husband.

6. In view of the submission, as a special case, without being cited as a precedent, the matter is referred to the Mediation and Conciliation Centre attached to this Bench for the purpose of finding out as to whether there is any possibility for conciliation. The Mediation Centre is directed to issue notice to the detenu/wife as well as the petitioner to appear before the Mediation Centre on the date, so fixed.

Sd/-

Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar

To

1.The Superintendent of Police, Theni, Theni District

2.The Inspector of Police, Kombai Police Station
Theni District

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

Copy to:

The officer incharge, Mediation and Conciliation Centre,
Madurai Bench of Madras High Court, Madurai.

+1CC to Mr.P.Kottaichamy, Advocate, SR.No. 41905

ORDER MADE IN
HCP .[MD].No.31 of 2018
09.01.2018