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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 23.01.2018

Coram :-

THE HON'BLE DR.JUSTICE S.VIMALA
and
THE HON'BLE MRS.JUSTICE T.KRISHNAVALLI

Habeas Corpus Petition No.69 of 2018

Chellappa

... Petitioner

-vs-

1. The Superintendent of Police,
Virudhunagar District,
Virudhunagar.

2. The Inspector of Police,
Krishnankoil Police Station,
Virudhunagar District.

3. Sundar @ Devaraj

4. Rajendran

... Respondents

Prayer: Habeas Corpus Petition is filed under Article 226 of Constitution of India, seeking a direction to the Respondent Nos.1 & 2 to produce the body or corpus of the detainee, viz., sister of the petitioner, Kamala @ Jhansi Rani, D/o.M.Robert, aged 34 years old before this Hon'ble Court, who is under the illegal custody of the respondents 3 and 4 and set her liberty.

For Petitioner : Mr.P.M.Vishnuvarathanan

For R1 & R2 : Mr.C.Ramesh

Addl. Public Prosecutor

O R D E R

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

Habeas Corpus is Petition filed by one Chellappa, alleging that her only sister, who got married to the third respondent on 17.09.2013 was abducted by the third and fourth respondents on 02.01.2018.

<https://hcservices.ecourts.gov.in/hcservices> 2. The petition details the matrimonial discard between the third respondent and the petitioner's sister.



3. The fourth respondent is stated to be a Pastor, who allegedly contacted the petitioner as well as his father and he has offered his well wishes to settle the matter between the husband and wife (the third respondent and the detenu).

4. It is stated that the petitioner begot two children by name Abiya and Pravin Raj. I.D.O.P.4 of 2017 before the Family Court, Srivilliputhur has been filed by the alleged detenu against her husband / third respondent in the month of November, 2017 in which the third respondent has appeared before the Court. The case is posted to 22.01.2018.

5. When the case is posted to 22.01.2018, this incident of abduction is stated to have taken place on 02.01.2018.

6. Learned Additional Public Prosecutor representing the State would submit that it is a case where the remedy lies not by filing a Habeas Corpus Petition, but by invoking the process of ordinary criminal law. It is pointed out that even on earlier occasion, there had been a similar problem between the detenu and the third respondent in respect of which the detenu's father Robert had preferred a complaint on 09.10.2017. The complaint was that on account of cruelty caused to the detenu, she came to the house of the father and thereafter, she was found missing. The third respondent also had given a complaint on the same day on 09.10.2017, alleging that his wife was found missing from the house of her father. It was registered as Petition No.91 of 2017. During the petition enquiry, the detenu's father brought her daughter along with a Lawyer and after giving a statement, she was taken by the father.

7. It has been alleged by the detenu during the earlier occasion that her husband had been spending money by involving himself in politics and after selling the jewels of detenu, he has been beating her and harrassing her. It was alleged that she was sexually harassed and therefore, she was compelled to leave the matrimonial home and as the husband was intervening even while she was at her father's house, fearing that she may be sent to husband's house, she went to Annai Therasa Ashram. On account of pendency of complaint, she was forced to leave the Ashram also and to return back to her father.

8. The overall facts and circumstances would clearly go to show that it is not a case of illegal custody or forced abduction, but a case of unwillingness on the part of the wife to live with the husband. Anticipating that father may compel her to live with the husband, she seems to have left the house on an earlier occasion. In respect of the present incident lodged by the brother of the detenu, the petition has been registered in Petition No.5 of 2018 by Krishnankoil Police Station. In the petition itself, it is stated that the third respondent, who took the wife informed the petitioner to take her back.



9. The nature of allgations made in the petition dated 11.01.2018 would go to show that the matrimonial dispute, which had to be sorted out by the Court is sought to be dissolved by using the Police force.

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10. Considering the overall facts and circumstances, the nature of dispute between the parties and the nature of allegations made in the petition, we are of the view that the remedy lies not in the writ jurisdiction, but before the ordinary criminal Court and the Family Court. However, the respondents shall inform the progress of the enquiry to the petitioner.

With this observation, this Habeas Corpus Petition is closed.

Sd/-
Assistant Registrar (AS)

/True Copy/

Sub Assistant Registrar

To:

- 1.The Superintendent of Police,
Virudhunagar District,
Virudhunagar.
- 2.The Inspector of Police,
Krishnankoil Police Station,
Virudhunagar District.
- 3.The Additional Public Prosecutor
Madurai Bench of Madras High Court,
Madurai.

AR
TE/RSK/SAR-1 : 09/02/2018 : 3P/4C

Habeas Corpus Petition No.69 of 2018
23.01.2018