



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.12.2018

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WEB COPY

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR
AND
THE HON'BLE MR.JUSTICE C.SARAVANAN

H.C.P(MD)No.1835 of 2018

J.Krishnaveni

...Petitioner

-Vs.-

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

2.The Inspector of Police,
Sattur Taluk Police Station,
Virudhunagar District.

3.The Superintendent of District Prison,
Virudhunagar, Virudhunagar District.

...Respondents

Prayer: This Habeas Corpus Petition is filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Habeas Corpus, directing the 1st and 2nd respondents to produce the body and person of the petitioner's husband by name Murali, S/o.Alagarsamy, aged about 44 years before this Court and set him at liberty.

For Petitioner

: Mr.C.M.Arumugam

For Respondents

: Mr.R.Anandharaj

Additional Public Prosecutor

ORDER

(Order of the Court was made by M.NIRMAL KUMAR, J.)

The petitioner, who is the wife of the detainee, seeks to produce her husband before this Court and set him at liberty.

2. The petitioner's husband / detainee, who is arrayed as the accused in Crime No.292 of 2018 for the offence punishable under Sections 103 (a) and 104 of the Trade Marks Act, 1999 and Section 420 IPC, was arrested by the second respondent on 24.12.2018.

3. It is submitted by the learned counsel appearing for the petitioner that the detainee moved an anticipatory bail petition before this Court in CrI.O.P.(MD)No.21156 of 2018 and this Court, by order dated 29.11.2018, directed the respondents not to arrest the detainee, since the allegations are not serious in nature and the case is posted to 08.01.2019 for further hearing. It is only the



violation of Trade Marks Act, wherein maximum sentence is six months and consequently, 420 IPC was also committed. In the meanwhile, the second respondent had arrested the detainee, which is in violation of this Court's order and it is illegal. Hence, he seeks to produce the detainee before this Court and set him at liberty.

4. The Sub-Inspector of Police, namely, M.Jayaraman attached to the second respondent police station, was present before this Court on 20.12.2018, when the order of this Court not to arrest of the petitioner in Crime No.292 of 2018 was ordered.

5. It is also made clear that though in the Section 41-A Cr.P.C., certain procedures have been contemplated, which was not followed in this case, which fact admitted by the second respondent who is present in this Court.

6. Considering the gross violation of the orders of this Court and violation of the fundamental rights of the petitioner guaranteed under the constitution, held by this Court as well as the Apex Court in catena of judgments, this Court finds the arrest and detention of the detainee is illegal and the detainee is hereby set at liberty and the third respondent is directed to release the petitioner forthwith, without any condition, if he is not otherwise required in any other case.

7. Recording the same, the Habeas Corpus Petition is disposed of.

Sd/-
Assistant Registrar(CS- I)\
Vacation Officer

/True Copy/

Sub Assistant Registrar(CS-I)

To:

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

1cc to MR.C.M.ARUMUGAM,ADVOCATE SR.10195

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<https://hccs.csbj.in/Server/12.2018/2P/6C>

H.C.P(MD)No.1835 of 2018
27.12.2018