



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.10.2018

CORAM:

WEB COPY

**THE HONOURABLE MR.JUSTICE M.M.SUNDRESH
AND
THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR**

H.C.P.[MD].No.1366 of 2018

Manikandan

: Petitioner

Vs.

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

2. The Inspector of Police,
Suthamalli Police Station,
Tirunelveli District.

3. Subbiah

: Respondents

PRAYER: Petition is filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, directing the second respondent to produce either the person or body of the detenu, namely, Karthika, aged about 23 years, wife of the petitioner herein, before this Court and set her at liberty from the illegal custody of the third respondent in accordance with law.

For Petitioner : Mr.R.A.Ramachandran

For Respondents 1&2 : Mr.K.Dinesh Babu

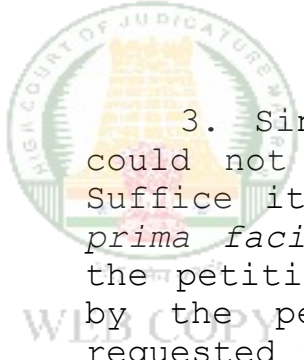
Additional Public Prosecutor

O R D E R

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

Pursuant to our earlier order dated 24.10.2018, we once again permitted the parties to have a frank discussion. The detenu is steadfast in living alone. In fact, her story is that the marriage has been consummated by fraud. The detenu has also filed a petition for divorce in H.M.O.P.No.231 of 2018, raising serious allegation against the petitioner.

2. The petitioner has informed us that he would never give divorce to the detenu. The detenu pleaded before us and requested the petitioner to give divorce.



3. Since the issue involved in this Habeas Corpus Petition could not be resolved, we are not inclined to pass any order. Suffice it to say that from the statement of the detenu, it is *prima facie* clear that the registration of the marriage between the petitioner and the detenu has taken place by fraud committed by the petitioner. Though the detenu pleaded before us and requested the petitioner to give divorce, in view of the pendency of the proceedings before the Family Court, Tirunelveli, we are not inclined to issue any direction as prayed by her. The detenu is a Software Engineer, whereas the petitioner is working as an Auto Driver. This *inter se* status is also not a ground for us to decide the allegation made by the detenu. What we are concerned is the illegal detention, which is not certainly available in this case. *Prima facie* we find that the earlier no marriage has taken place. We also make it clear that our observations are all only *prima facie* in nature.

4. In such view of the matter, the Habeas Corpus Petition is closed, with a direction to the Family Court, Tirunelveli, to dispose of H.M.O.P.No.231 of 2018 within a period of four months from the date of receipt of a copy of this order.

Sd/-
Assistant Registrar (Records)

/True Copy/

Sub Assistant Registrar (CS-II)

To

1. The Judge, Family Court, Tirunelveli.
2. The Superintendent of Police,
Tirunelveli District, Tirunelveli.
3. The Inspector of Police,
Suthamalli Police Station,
Tirunelveli District.

Copy To:-

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

- + 1 CC TO Mr.S.R.A.RAMACHANDRAN, ADVOCATE IN SR No. 93970
- + 1 CC TO Mr.S.SIVAKUMAR, ADVOCATE IN SR No. 94276

NB

TE/SV/SAR-2 : 23/11/2018 : 2P/7C