

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.12.2019

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH
AND
THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

H.C.P.NO.143 OF 2019

Manian

.. Petitioner

Vs.

1. State of Tamil Nadu,
Rep. by Inspector of Police (L & O),
Vedaranyam Police Station,
Nagapattinam District.
 2. The Superintendent of Police,
District Police Office,
Nagapattinam,
Nagapattinam District.
- .. Respondents

Habeas Corpus Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Habeas Corpus to direct the first respondent to produce the petitioner's son, namely Ramalingam, aged about 24 years, before this Court and set him at liberty.

For petitioner : Mr.D.Sreenivasan
for Mr.S.Giritharan

For respondents : Mr.R.Prathap Kumar, Addl.P.P.

ORDER

(The Order of the Court was made by R.Subbiah,J)

This Habeas Corpus Petition is filed praying for issuance of a Writ of Habeas Corpus to direct the first respondent to produce the petitioner's son, namely Ramalingam, aged about 24 years, before this Court and set him at liberty.

2. It is stated by the petitioner that his son Ramalingam (detenu) was alleged to have been involved in an offence relating to assault on the Judicial Magistrate, Vedaranyam and

was released on bail by this Court and till recently, he had been complying with the condition to report before the Mahila Court, Nagapattinam, relating to S.C.No.141 of 2015, every Monday for the past two years. While so, on 17.12.2018 at about 7 hours, he left the house of the petitioner at Thethakudi in order to report before the Mahila Court, Nagapattinam on the stipulated time as usual. The time for travel from the petitioner's house to Nagapattinam would be more than one and half hours and therefore, his son usually will leave early in order to avoid any delay in reporting to the Court. He used to return immediately after complying with the order before 13.30 hours. But on that day, he did not return home even after 19.00 hours. The petitioner searched for his son with the friends, relatives, etc., and he could not trace him. Next day, on 18.12.2018, the petitioner verified in the Mahila Court, Nagapattinam and he came to know that his son did not report before the said Court. The efforts taken by the petitioner to reach him through his mobile, also ended in vain. Therefore, the petitioner lodged a complaint on 18.12.2018 at about 21 hours with the first respondent-Police regarding missing of his son. FIR was registered in No.322 of 2018, dated 18.12.2018. Further, on 26.12.2018, the petitioner approached the second respondent and requested to expedite the action in search of the petitioner's son by giving him another clue that a stranger visited the petitioner's house in search of his son a couple of days before 17.12.2018, who introduced himself as an Advocate, who also gave his mobile number. The said fact did not strike the petitioner at the time of lodging the complaint and on comparing the series of events later, the petitioner attempted to match the said person and the missing of his son. The petitioner also informed the second respondent that when the petitioner spoke to the said person, he used the name of Mr.Harikrishnan, Advocate, who had asked him to search his son in his house by claiming himself to be an Advocate. The said Harikrishnan was not called for enquiry. The said Harikrishnan, Advocate, is the first accused in the said case, wherein the petitioner's son had made his statement before the authorities. Since no effective steps were taken to trace the petitioner's son, he has preferred this Habeas Corpus Petition for the relief stated supra.

3. Today, when the matter is taken up for consideration, the learned Additional Public Prosecutor appearing for the respondents, by filing status report, submitted that based on the complaint, dated 18.12.2018 of the petitioner, a case was registered in Vedaranyam Police Station in Crime No.322 of 2018 as "man missing". During the course of investigation, the investigating officer had enquired and recorded the statements under Section 161 Cr.P.C. from 9 persons. On 24.12.2018, the then Inspector of Police had examined two other witnesses

Harikrishnan and Sathiyaseelan, who had stated that on 10.12.2018, the missing person called the said Harikrishnan and told him that one David Satheesh and Sathiyaraj were also involved in the assault case and threatened the detenu Ramalingam of assault, since the detenu had turned as an approver in the assault case and his evidence was recorded. The learned Additional Public Prosecutor further submitted that the investigating officer had come to the conclusion that fearing about the other accused, the detenu would have hidden himself. Now the said assault case is posted for recording evidence of the investigating officer and probably, in one or two hearings, the trial will be over and the case will be disposed of and that there is possibility that the detenu may return. The learned Additional Public Prosecutor further explained the details of the steps taken by the respondents in tracing the detenu and that the Police are taking serious steps to secure the detenu.

4. The above submissions made by the learned Additional Public Prosecutor are recorded and the Habeas Corpus Petition is closed, with a direction to the respondents-Police to proceed with the investigation in tracing the detenu at the earliest.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. State of Tamil Nadu,
Rep. by Inspector of Police (L & O),
Vedaranyam Police Station,
Nagapattinam District.
2. The Superintendent of Police,
District Police Office,
Nagapattinam, Nagapattinam District.
3. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.S.Giritharan, Advocate, S.R.No.105218

H.C.P.No.143 of 2019

SV(CO)
CS/11/02/2020