

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.02.2019

CORAM :

THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN
and
THE HONOURABLE MR. JUSTICE M. NIRMAL KUMAR

H.C.P. No.351 of 2019

S.Vinoth

... Petitioner

Vs.

- 1.The Commissioner of Police,
Chennai City Police,
Chennai.
- 2.The Deputy Commissioner of Police,
Ambattur, Chennai.
- 3.The Inspector of Police,
T-10, Thirumullaivoyal Police Station,
Chennai-62.

... Respondents

Prayer : Habeas Corpus Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Habeas Corpus directing the 3rd respondent herein to produce the body of the detainee Mrs.Shilpa aged 25 years before this Court and set her at liberty.

For Petitioner : Mr.K.Thirunavukkarasu

For Respondents : Mr.C.Iyyapparaj
Additional Public Prosecutor

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O R D E R

(Order of the Court was delivered by M. SATHYANARAYANAN, J.)

The petitioner is the husband of the detainee viz., Shilpa. According to him, he and the detainee loved each other and subsequently got married and out of wedlock, they got a male child, namely V.Varshan aged about 4 years. The petitioner would state that he is working as professional Photographer. It is the

specific case of the petitioner that his wife / detenue had developed acquaintance of friendship through Facebook and it was castigating by him and in connection with his profession, he went out of station on 19.10.2018 and when he returned, he found that the detenue / wife as well as the minor child were missing and the detenue also left a letter stating that he is not prepared to live with him and not to trace them and asked him to leave her to live a peaceful life. In this regard, he lodged a complaint on 20.12.2018 on the file of the Thirumullaivoyal Police Station / 3rd respondent and on his own efforts, he traced his wife on 21.10.2018 and through Police Station, her custody was handed over.

2. The writ petitioner tried his level best to correct / pacify her, but once again, his wife/detenue leaves his company and also left the child with him. Again, she was traced on 04.11.2018 and since he started creating problem, she was taken to the 3rd respondent Police Station and the Station House Officer tried to bring them to an amicable settlement and since both of them not cooperating, sent them to All Women Police Station, Avadi for convincing and a police personnel attached to the said police Station asked to come after Diwali and from the date onwards, his whereabouts are missing. The petitioner has also lodged a complaint on 28.12.2018 to the Commissioner of Police / 1st respondent giving her phone number and facebook profile and asked them to trace his wife and handover the custody to him and since no effective action have been taken by the respondent Police, the petitioner came forward to file this Habeas Corpus Petition.

3. The learned counsel appearing for the petitioner would submit that the male child, aged about 4 years, has been left with the custody of the petitioner and for wanting love, care and affection, the child is suffering and since his wife, on account of acquaintance through Facebook with some of her friends, has deliberately left his company and that the complaint in that regard has failed to evoke any kind of response and hence prays for appropriate orders.

4. This Court has considered the submissions made and also perused the materials placed before it.

5. A perusal of the complaint dated 28.12.2018 submitted to the 1st respondent would prima facie disclose that on account of difference of opinion, the detenue, who is the wife of the petitioner, has left the company of the petitioner of her own volition. The petitioner not even whispered anything about the illegal detention / custody of the detenue with somebody else. It may be the parting of the company by the detenue may be on account of matrimonial discard. In the absence of any specific

allegation as to the illegal detention / custody with somebody else, this Court is of the considered view that the Habeas Corpus Petition cannot be entertained.

6. In the result, the Habeas Corpus Petition is dismissed and if the petitioner is so advised, he is at liberty to approach the competent forum in accordance with law to workout his further remedy.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Commissioner of Police,
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- 2.The Deputy Commissioner of Police,
Ambattur, Chennai.
- 3.The Inspector of Police,
T-10, Thirumullaivoyal Police Station,
Chennai-62.
- 4.The Public Prosecutor,
High Court, Madras.

H.C.P. No.351 of 2019

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