

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.04.2019

CORAM:

THE HONOURABLE MR.JUSTICE M. SATHYANARAYANAN

AND

THE HONOURABLE MR.JUSTICE M. NIRMAL KUMAR

H.C.P.No.380 of 2019

B.Kamalesh Kumar Petitioner/Husband of the detenue
Vs

- 1.State of Tamil nadu rep.
The Superintendent of Police,
Thiruvallur-602 001.
Thiruvallur District.
- 2.The Assistant Superintendent of Police
Ponneri-601 204
Thiruvallur District.
- 3.The Inspector of Police,
Minjur Police Station
Thiruvallur District.

4.Mr.Syed Irshad Ahmed Respondents

Prayer: Habeas Corpus Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Habeas Corpus to direct the 3rd respondent herein to secure and produce the detenu, namely K.Nisha W/o B.Kamalesh Kumar, aged about 28 years, before this Court and set her with liberty.

For Petitioner : Mr.M.D.Ilayaraja

For Respondents : Mr.C. Iyyappa Raj
Additional Public Prosecutor

O R D E R

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

The petitioner is the husband of the detenue, namely K.Nisha aged about 28 years. According to him, he got married to the detenue on 18.04.2008 and out of wedlock, they are blessed with two daughters namely, K.Aastha aged about 7 years and K.Thosty, aged about 4 years and she

was initially missing during the year 2017 on 06.09.2017 and she herself returned to the matrimonial home after three months and once again, she was found missing from 15.12.2018 and in this regard, the petitioner has also lodged a complaint, based on which the 3rd respondent has registered a case in Cr.No.752 of 2018 for ''Women Missing''.

2. The learned counsel appearing for the petitioner would submit that despite lapse of nearly four months, no efforts have been made to trace the detainee and hence, he has been constrained to file this Habeas Corpus Petition.

3. When the matter was listed on 06.03.2019, the learned Additional Public Prosecutor, on instructions, would submit that it is a case of second time elopement. On an earlier occasion, the detainee had eloped with the 4th respondent and she was traced and once again, she is found missing from 15.12.2018 and on enquiry, it reveals that she once again eloped with the 4th respondent leaving the custody of the two children with the petitioner.

4. In the light of the fact that the detainee, though a married women, had eloped with the 4th respondent for the second time and that the investigation is also on with regard to registration of the case in Cr.No.752 of 2018 by the 3rd respondent, this Court is unable to come to the rescue of the petitioner. However, taking into consideration the anxiety expressed by the petitioner, this Court directs the 3rd respondent to bestow best attention and conduct fair and impartial investigation in accordance with law and as and when, the detainee is traced, she shall be produced before the Court of Judicial Magistrate No.II, Ponneri for passing appropriate orders as to her custody.

5. The Habeas Corpus Petition is disposed of, subject to above observation.

Sd/-
Vacation officer

//True Copy//

Sub Assistant Registrar

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To

1. The Superintendent of Police,
Thiruvallur-602 001.
Thiruvallur District.

2.The Assistant Superintendent of Police
Ponneri-601 204
Thiruvallur District.

3.The Inspector of Police,
Minjur Police Station, Thiruvallur District.

4. The Public Prosecutor
High Court, Madras.

+1cc to Mr.R.Sathish Kumar , Advocate SR.No.32276
H.C.P.No.380 of 2019
A.SK(24/05/2019)



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