

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED :20.03.2019
CORAM:
THE HONOURABLE Mr.JUSTICE M.SATHYANARAYANAN
and
THE HONOURABLE Mr.JUSTICE M.NIRMAL KUMAR

H.C.P.No.397 of 2019

Gurunath Prabu

.. Petitioner

Vs.

1.The Commissioner of Police
Commissionerate
Vepery, Chennai.

2.The Inspector of Police
W-22, All Women Police
Mylapore
Chennai - 600 004.

3.Chandran

4.The Inspector of Police
J-4, Kotturpuram Police Station
Chennai - 600 085.

(R4-impleaded as per order dated 08/03/2019
made in CrI.Mp.No.3326/19 in HCP.397/19)

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Habeas Corpus, directing the second respondent to produce the person / detainee Ashmitha Chandran, wife of Gurunath Prabhu, aged 28 years, before this Court from the custody of third respondent and set her at liberty.

For Petitioner .. Mr. Y.Kaja Navas

For Respondents.. Mr.C.Iyyappa Raj
1, 2 & 4 Additional Public Prosecutor

ORDER

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

The petitioner, in the affidavit filed in support of this Habeas Corpus Petition, would aver among other things that

the petitioner is working as a Photographer in RITZ Magazine for the past three years and the detenie is working as a consultant in Red Consultancy, which is nearer to his office and they developed acquaintance, which later blossomed into love. This came to the knowledge of the parents of the detenie and thereafter, they did not allow the detenie to go out and she was kept in their custody for the past four months. The detenie, however managed to escape from the clutches and got married the petitioner on 01.12.2019, at Sai Baba Temple in Mylapore as per the Hindu rites and customs.

2. The petitioner as well as the detenie fearing some trouble and torture from the parents of the detenie, had approached the second respondent, however, they were sent to Kotturpuram Police Station for enquiry. Thereafter, they were again sent to the Mylapore Police Station and the parents of the detenie were also called for enquiry, who on arrival at the said police station, made attempts to separate them, and also tried to convince the detenie to leave the petitioner. However, the detenie refused to it and insisted to go with the petitioner.

3. The Inspector of Police attached to the said police station and the parents of the detenie had joined hands together in separating them and he was informed by the Inspector of Police that the detenie would be sent to Home and she would be produced before the Court the next day morning, and also required the petitioner to come for enquiry the next day. Believing the words of the respondent, the petitioner left the place and when he visited the police station the next day, the detenie was not there, and it appeared that the detenie had accompanied her parents, and she did not return back.

4. Alleging illegal custody of the detenie at the hand of her parents, the petitioner had lodged a complaint before the second respondent, but they failed to receive the complaint and therefore, the petitioner lodged a complaint before the Commissioner of Police on 19.03.2019, and despite receipt and acknowledgment, no action was forthcoming in securing the custody of the detenie, and hence, the petitioner fearing safety and well-being of the detenie, came forward to file this Habeas Corpus Petition.

5. When the matter came up for hearing before this Court on 27.02.2019, the learned Additional Public Prosecutor, who accepted notice on behalf of the respondents 1 and 2, sought time to get instructions from the Inspector of Police, Kotturpuram Police Station and the matter was adjourned to 20.03.2019. In the meantime, the petitioner has filed CrI.MP.No.3326 of 2019 to implead the Inspector of Police, J-4 Kotturpuram Police Station, Chennai-85 as party respondent, and

the said petition came to be ordered on 08.03.2019 and accordingly, the Habeas Corpus Petition is listed today for hearing.

6. The petitioner, the detinue and her parents are present today. The detinue was enquired by this Court and she would state that no marriage as alleged by the petitioner took place on 01.02.2019, and she further added that her relationship with the petitioner is only a casual acquaintance and she is not in love with the petitioner, and she would further add that the marriage arranged by her parents, did not take place for the reason that the petitioner might have informed about the alleged relationship to the boy with whom the detinue is going to get married. The detinue would further state that she is well qualified and she wants to pursue her career in Journalism and she also expressed her willingness to go with her parents, who are also present before this Court.

7. The parents of the detinue are also enquired and they would state that the detinue wants to remain with them and they would take care of her safety and well-being.

8. The petitioner is also present before this Court and he has reiterated the same facts cited in the affidavit filed in support of this Habeas Corpus Petition. He further added that even while pending of this Habeas Corpus Petition, the detinue had contacted him from her mother's mobile phone and spoke to him.

9. The learned counsel appearing for the petitioner prays that sufficient counselling may be given to the petitioner and the detinue for their well-being.

10. This Court has carefully considered the rival submissions and also perused the records placed before it.

11. A perusal of the materials would disclose that the petitioner was already married to Mrs.Lisha, D/o.Late N.Pushpachandran, at Guruvayoor, Kerala and thereafter, differences arose between them, based on which, he filed a petition for divorce in O.P.No.270 of 2019 on the file of the Principal Family Court, Chennai and the Family Court vide order dated 12.02.2019, has granted mutual divorce to the petitioner as well as to his wife namely Mrs.Lisha. Though the petitioner would claim that he and the detinue got married at Sai Baba Temple, Mylapore, Chennai-600 004, on 01.2.2019, no proof has been filed to that effect and even assuming the marriage of the petitioner with the detinue was performed, in the absence of any

material for registration of marriage, this Court cannot take cognizance of the same.

12. Be that as it may, the detinue is a major aged about 28 years and she is well qualified and when this Court interacted with her, she revealed that she wants to remain with her parents and pursue her career in journalism.

13. In the light of the above facts and circumstances, it cannot be said that the detinue is under illegal custody and detention of her parents, and moreover, this Court also records the statement of the detinue that her marriage arranged by her parents with a boy, could not be performed, on account of the fact that the alleged acquaintance between the detinue and the petitioner, might have been informed by the petitioner to the boy, with whom the marriage was to be performed.

14. In view of the above, this Habeas Corpus Petition is dismissed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To:

1.The Commissioner of Police
Commissionerate
Vepery, Chennai.

2.The Inspector of Police
W-22, All Women Police
Mylapore
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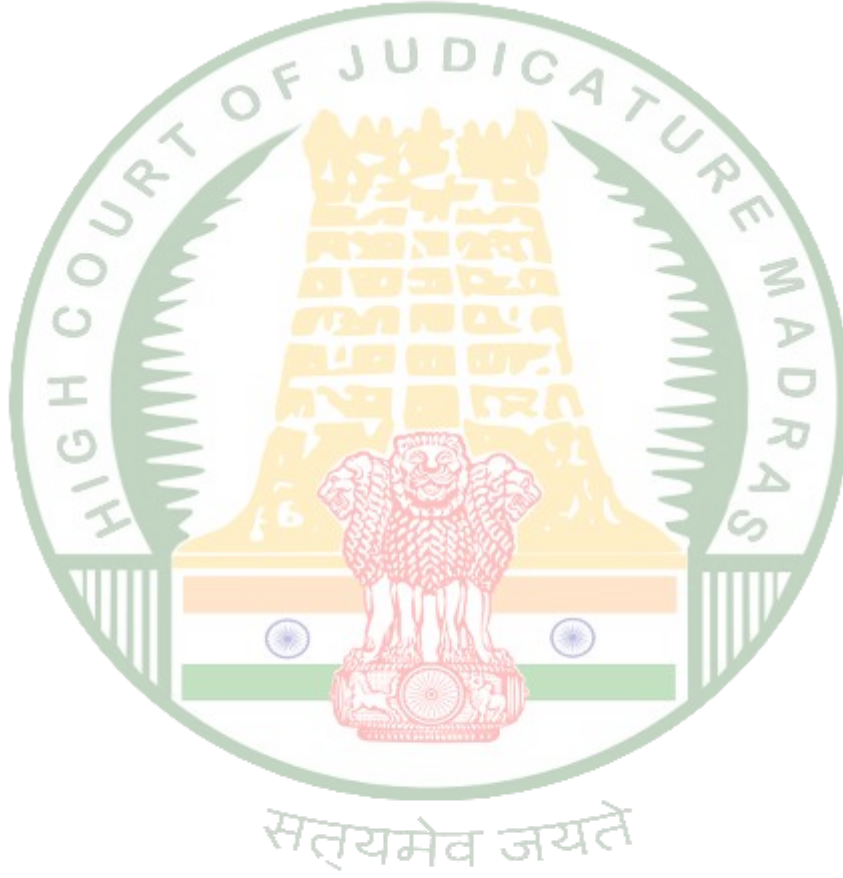
4. The Public Prosecutor
High Court, Madras.

+2cc to Mr. Y.Kaja Navas, Advocate sr.no.26639

+1cc to Mr.Ganesh Kumar, Advocate sr.no.26400

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nr 23/04/2019



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