

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 12-03-2019

CORAM:

THE HONOURABLE MR. JUSTICE R. SUBBIAH
and
THE HONOURABLE TMT. JUSTICE KRISHNAN RAMASAMY

Habeas Corpus Petition No. 412 of 2019

S. Shanthi

.. Petitioner

Versus

1. State represented by
The Director General of Police
Dr. Radhakrishnan Salai
Mylapore, Chennai - 600 004
2. The Superintendent of Police
Office of the Superintendent of Police
Namakkal District 637 003
3. The Deputy Superintendent of Police
Paramathi Velur
Namakkal District 638 182
4. The Inspector of Police
Paramathi Velur Police Station
Namakkal District 637 207
5. The Sub Inspector of Police
Jedarpalayam Police Station
Namakkal District 637 213

6. N. Anbazhagan

.. Respondents

Petition filed under Article 226 of The Constitution of India praying to issue a Writ of Habeas Corpus to direct the fourth respondent to produce the body of her husband Mr. Saravanan, aged 42 years before this Court and to set him at liberty.

For Petitioner : Mr. C. Mariappan

For Respondents : Mrs. V. Saratha Devi
Government Advocate for RR1 to 5

Mr. Deepan Uday for R6

ORDER

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

The petitioner has come forward with this Habeas Corpus Petition seeking to issue appropriate direction to the respondents 1 to 5 to produce the body of her husband Saravanan, aged 42 years before this Court and to set him at liberty.

2. According to the petitioner, her husband is engaged in Cable TV operation business in the name and style of "Navaladiyan Cable" in Kabilarmalai since 2015 and he is having nearly 1000 customers in the said business. He is doing such business after obtaining licence bearing TV (LCO) Registration No.11253 issued by the Tamil Nadu Arasu Cable TV Corporation Limited in the year 2015. It is further stated that her husband borrowed a sum of Rs.3 lakhs from one Senthilkumar through the sixth respondent for developing his business. At the time of availing loan, as insisted by the sixth respondent, the petitioner's husband had signed certain blank stamp papers and green sheets as a security for the loan he had borrowed. It is the contention of the petitioner that her husband had subsequently, settled the entire loan amount to the sixth respondent. However, the sixth respondent, even after repayment of the entire loan amount, did not return the blank signed papers. On the other hand, the sixth respondent created forged and fabricated document purported to be a sale deed as if the petitioner's husband had sold the property standing in his name for the amount of Rs.15 lakhs borrowed by him from the sixth respondent. Notwithstanding the same, based on such forged sale deed, the sixth respondent threatened the petitioner's husband to handover his cable TV business to him immediately failing which he threatened him with dire consequences. Further, the sixth respondent also attempted to transfer the Cable TV licence in the name of her husband illegally into his name. The petitioner also contends that her husband had given several complaints to the respondents 2 to 5 against the sixth respondent, but no action has been taken. While so, on 10.01.2019 at about 5 pm, the sixth respondent along with his associates visited the Cable TV office of the petitioner's husband and threatened to kill him. In connection with the said incident also, the petitioner's husband had given a complaint on 11.01.2019 and on 14.01.2019 to the respondents 2 to 5 but no action is forthcoming. While so, on 06.02.2019, the sixth respondent along with his men broke open the Cable TV office and looted all the materials thereof worth Rs.6 lakhs. Immediately, the petitioner's husband lodged a complaint to the fourth respondent, but no action was taken even on the said complaint. Further, the husband of the petitioner has also filed CrI.OP No. 2298 of 2019 before this Court seeking police protection to him and his family as there is a constant threat made by the sixth respondent and his men.

3. According to the petitioner, on 11.02.2019, the fourth respondent called the petitioner's husband to the police station for an enquiry. The petitioner's husband also left his house to the fourth respondent police station and thereafter, he did not return home and his whereabouts were not known. Therefore, on 11.02.2019, the petitioner has given a complaint to the fourth respondent complaining that the sixth respondent and his men would have kidnapped her husband. On the basis of such complaint dated 11.02.2019, a case in Crime No. 31 of 2019 was registered under the caption "man missing", which was subsequently altered into one under Section 363 of Indian Penal Code on 13.02.2019. According to the petitioner, from 11.02.2019, the whereabouts of her husband is not known. In such circumstances, the petitioner has filed the present petition.

4. Today, when the writ petition is taken up for hearing, the husband of the petitioner has been produced before this Court by the 4th and 5th respondents herein through the learned Government Advocate appearing for the respondents 1 to 5. We have also enquired the petitioner's husband,

5. The learned Government Advocate appearing for the respondents 1 to 5 would contend that there is a dispute between the petitioner's husband and the sixth respondent in connection with the Cable TV business. In fact, the sixth respondent has also given a complaint to the fifth respondent herein on 01.02.2019 wherein he has complained that the petitioner's husband along with his men have threatened him with dire consequences and that they have locked the Cable TV Office run by him. Thus, according to the learned Government Advocate, there is a dispute with reference to the running of Cable TV business between the petitioner's husband and the sixth respondent and they have to work out their remedy only before the competent Court of law.

6. On the above contention, we have also heard the learned counsel for the sixth respondent and perused the records.

7. The present Habeas Corpus Petition has been filed by the petitioner seeking to direct the respondents 1 to 5 to produce the body of her husband Saravanan before this Court and to set him at liberty. As mentioned above, the petitioner's husband has been produced before this Court today. On enquiry, the petitioner's husband had stated that the sixth respondent had kidnapped him and kept under his illegal custody. When we enquired the sixth respondent, he denied the statement of the petitioner. Be that as it may, since the petitioner's husband has been produced before us now, the relief sought for in this petition no longer survives for our consideration. As regards

the dispute between the petitioner's husband and the sixth respondent, it is for the fourth respondent to deal with complaint given by the petitioner's husband in a manner known to law.

Accordingly, the Habeas Corpus Petition is disposed of. No costs.

s/d-
Assistant Registrar(CS VI)

True Copy

Sub-Assistant Registrar

To

1. State represented by
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Namakkal District 637 213

+1 CC to Mr.C.Mariappan, advocate sr 23516.

+1 CC to Mr.Deepan Uday, Advocate sr 23414.

HCP No. 412 of 2019

RJI(CO)
SP(01/04/2019)