

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.04.2019

CORAM:

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

H.C.P.No.575/2019

Surya

.. Petitioner

vs.

1.The Superintendent of Police
Upper Bazaar, Ooty,
The Nilgiris 643001.

2.The Inspector of Police
Pudumund Police Station
Udhagamandalam,
The Nilgiris.

3.Mr.Kumar

4.Mr.Vishal

.. Respondents

Prayer : Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of habeas corpus directing the respondents 1 and 2 herein to produce the husband of the petitioner K.Prasanth, son of Kumar, aged 30 years, before this Court and set him at liberty.

For Petitioner .. Mr.C.Murali

For RR 1 & 2 .. Mrs.V.Sharadha Devi,
Government Advocate [Crl.Side]

WEB COPY
ORDER

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

The petitioner, claims to be the wife of the detenu, viz., K.Prasanth, son of Kumar, aged about 30 years and according to her, she married the detenu out of love and affection despite

the fact that both family expressed their objections to the said marriage and the marriage came to be solemnised on 19.10.2016. After marriage, the detenu and the petitioner started living together as husband and wife and out of wedlock, a female child, viz., Sudhiksha, was born on 25.11.2017. The petitioner is now in the advanced stage of 8th month pregnancy and living in Bengaluru along with the child. IT is the specific case of the petitioner that on 26.09.2018, her husband went to meet his brother, viz., the 4th respondent herein, at Coimbatore and after reaching Coimbatore, he contacted the petitioner over phone and told her tha there is an imminent threat to his life and body on account of love marriage. The petitioner, also immediately contacted the 4th respondent, who in turn, also threatened her and the minor child with dire consequences.

2 The petitioner, alleging illegal custody and detention of her husband - detenu herein, at the hands of the respondents 3 and 4 - father-in-law and brother-in-law of the petitioner herein, has also lodged a complaint on the file of the Inspector General of Police and the Deputy General of Police, Coimbatore as well as to the Superintendent of Police, Coimbatore Rural Police District. The petitioner further lodged a complaint on the file of the 2nd respondent also and since no worthwhile response is forthcoming and that the petitioner is very much concerned about the safety, well being and whereabouts of her husband and also left in lurch along with the minor female child aged about 2 years and also in the advanced stage of pregnancy, came forward to file the present petition.

3 The Habeas Corpus Petition was entertained on 18.03.2019 and notices were ordered. When the matter is listed today, the petitioner along with the minor child are present before this Court.

4 This Court heard the submissions of the learned counsel for the petitioner and Mrs.V.Sharadha Devi, learned Government Advocate [Crl.Side] appearing for the respondents 1 and 2 who produced the case papers relating to CSR.No.18/2019.

5 A perusal of the materials would disclose that the father and mother of the detenu Prasanth would state that the detenu did not contact them for quite a long time and it also appears that the petitioner is already

married and out of first marriage, begot a female child also aged about 8 years. It is also brought to the knowledge of this Court that the petitioner has also lodged a complaint against the detenu-her husband, for the alleged commission of the offence u/s.498-A IPC on the file of the Mahadevapura Police Station, Whitefield Sub Division, Mayohalli, Bengaluru City and

a case in crime No.48/2018 also came to be registered on 06.10.2018.

6 When this Court has put a specific question as to the non-disclosure of the said relevant facts, it is responded by the learned counsel for the petitioner that the said facts have been disclosed subsequently to the filing of this petition.

7 This Court, taking into consideration, the above facts and circumstances, is prima facie of the view that the detenu is not in illegal custody or detention at the hands of the respondents 3 and 4 and therefore, no positive order could be passed for his production. However, if the petitioner is so advised and if it is available to her under law, she is always at liberty to work out her further remedy in accordance with law before the competent Forum.

8 The Habeas Corpus Petition stands dismissed subject to the above observations.

Sd/-

Assistant Registrar

//True copy//

Sub Assistant Registrar

AP

To

1.The Superintendent of Police
Upper Bazaar, Ooty,
The Nilgiris 643001.

2.The Inspector of Police
Pudumund Police Station
Udhagamandalam, Kalhatti
The Nilgiris.

3.The Public Prosecutor,
Madras High Court, Madras.

+1cc to Mr.G.Murali, Advocate SR.No.31334

H.C.P.No.575/2019

GP (CO)

GMV (27/05/2019)