

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 30.04.2019

CORAM

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

HCP.No.616 of 2019

V.Nirmala

.. Petitioner

Versus

1. State of Tamil Nadu,
Represented by Inspector of Police,
J-13, Police Station, Nehru St, Kanagam,
Taramani, Chennai - 600 113

2. N.Varathan

3. N.Krishnamoorthy

.. Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Habeas Corpus, directing the 1st respondent to produce the detenu / the petitioner's husband Saravana Balaji S/o.Ezhumalai, aged 27 years before this Hon'ble Court from the illegal custody of 2nd and 3rd respondent and set him at liberty.

For Petitioner : M/s.K.Subhashini
for M/s.Chennai Law Associates

For Respondents : Mr.C.Iyyappa Raj
Additional Public Prosecutor for R1

ORDER

[Order of the Court was made by M.SATHYANARAYANAN, J.]

The present Habeas Corpus Petition is filed by the petitioner, aged about 19 years, daughter of late Mr.S.Venkatesan praying for the production of Mr.Saravana Balaji S/o.Ezhumalai from illegal custody / detention at the hands of the respondents 2 and 3. A perusal and consideration of the materials placed before this Court would prima facie disclose that there was love affair between the detenu and the petitioner, on account of various messages / intimation sent

through social media platform and under the pretext of marrying her had forceful physical relationship and on account of the same, she became pregnant. The petitioner made several attempts to contact the detenu for the purpose of marry her, which was purposefully evaded and taking into consideration that her pregnancy is 17 weeks and caring about her well being and reputation, came forward to file this habeas Corpus Petition.

2. The Habeas Corpus Petition was entertained on 22.03.2019 and when the matter was listed on 10.04.2019, this Court, on going through the various complaints given by the petitioner, found that she has taken prevaricating stand as to the relationship with the detenu and the learned Additional Public Prosecutor sought time to get instructions as to the steps taken based on the complaint given by the petitioner.

3. The matter is listed today and the learned counsel for the petitioner would submit that despite complaint given by the petitioner for the commission of cognizable offences, no action has been taken by the respondents. Since the petitioner has lost hope of marrying the detenu, she expresses her willingness to undergo termination of pregnancy under the provisions of the Medical Termination of Pregnancy Act, 1971 (34 of 1971).

4. The learned Additional Public Prosecutor appearing for the State on instructions would submit that based on the complaint given by the petitioner, All Women Police Station, Madipakkam, has registered a case in Cr.No.9 of 2019 against the detenu for the commission of offences under Sections 417, 376 and 506(ii) and apprehending arrest, the detenu has also filed a petition for Anticipatory Bail in CrI.M.P.No.11189 of 2019 and the same is pending. It is also the submission of the learned Additional Public Prosecutor that the petitioner has also lodged one more complaint on the file of All Women Police Station, Pallikaranai and CSR has been given. In respect of the case in Cr.No.9 of 2019, summons will be sent to the petitioner to record their statements. Since she is willing to undergo medical examination to substantiate her allegation levelled against the detenu and the said submission on instructions is placed on record.

5. In the light of the above facts and circumstances, especially on account of the registration of a case in Cr.No.9 of 2019 by All Women Police Station, Madipakkam, it cannot be said that the detenu is in illegal custody / detention at the hands of the uncles of the detenu viz., respondent 2 and 3. In the light of the submissions made by the learned counsel for the petitioner on instructions as to the willingness expressed by the petitioner to undergo termination of pregnancy, All Women Police Station, Madipakkam, is required to take necessary and

appropriate steps in terms of Section 3 of the Medical Termination of Pregnancy Act, 1971 (34 of 1971) and for the purpose of investigation, they are also at liberty to summon the petitioner and record her statement and also subjected to medical examination. As and when, the termination of pregnancy is done, the foetus shall be preserved for the purpose of pending case in Cr.No.9 of 2019 on the file of All Women Police Station, Madipakkam.

6. Accordingly, the Habeas Corpus Petition is disposed of.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1. The Inspector of Police,
State of Tamil Nadu,
J-13, Police Station, Nehru St, Kanagam,
Taramani, Chennai - 600 113
2. The Inspector of Police,
All Women Police Station,
Madipakkam,
Chennai.
3. The Public Prosecutor
High Court, Madras.

+1 cc to Mr.Chennai Law Associates, Advocate, S.R.No.43300

SSD(CO)

SSM(10/05/2019).

सत्यमेव जयते

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