

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 06.02.2019

CORAM

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

HCP.No.2271 of 2018

K.Aravinthan .. Petitioner
Versus

1.The Superintendent of Police,
Cuddalore, Cuddalore District.

2.The Sub-Inspector of Police,
Vadalur Police Station,
Vadalur.

3.V.Sivamani .. Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of habeas corpus directing the 2nd respondent to produce the body of my wife, the the detainee namely K.Keerthana, aged about 21 years from the illegal detention of 3rd respondent, before this Court and set her at liberty at once.

For Petitioner : Mr.R.Radha Pandian

For Respondents: Mr.C.Iyyapparaj
Additional Public Prosecutor

ORDER

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

The petitioner is the husband of the detainee, namely Mrs.K.Keerthana, aged about 21 years and he came forward to file this petition stating among other things that the marriage between him and the detainee was solemnized on 18.02.2016, as per Hindu Rites and Customs and out of wedlock, a girl child was also born and she is aged about two years.

2. The petitioner, having found that his wife was missing from 17.08.2018, suspected that she has gone with the 3rd respondent and lodged a compliant on 25.08.2018, based on which,

C.S.R.No.309 of 2018, came to be registered and he, expressing grievance that no further action has been taken to secure the custody and to find the whereabouts of the detenue, came forward to file this petition.

3. The matter is listed today at the instance of the learned Additional Public Prosecutor appearing for the respondents 1 and 2 on the ground that the detenue has been secured and accordingly, this Court directed the Registry to list this matter today.

4. Mr.C.Iyapparaj, learned Additional Public Prosecutor appearing for the respondents 1 and 2 would submit that based on earlier C.S.R.No.309 of 2018, the detenue was secured and the custody was handed over to her husband / petitioner and once again, she left with the 3rd respondent and in this regard, a complaint was given on 17.08.2018 and initially CSR was registered, after due and proper investigation, a case in Crime No.314 of 2018 was registered on 11.10.2018 for ''Women Missing'' and since the detenue has been secured now, prays for appropriate orders.

5. The detenue was produced before this Court and was also enquired and she would state that her husband used to suspect her fidelity and unable to bear with the same, she went with the 3rd respondent, who was introduced to her by her friend and she would further state that she did not want to be with the 3rd respondent and she may be permitted to go with her parents and reside in her parental home. It is also stated by her that the girl child is now with her Mother-in-Law and she may be permitted to take the custody of the child also while going to her parental home.

6. This Court heard the submission of the learned counsel appearing for the petitioner and also enquired the petitioner who is present before this Court and he would state that he has no objection if the detenue be with her parents and also willing to handover the custody of the girl child to the detenue as long as she remains with her parents and she given an undertaking that the child, as long as the detenue remains with her parents, should be with them.

7. This Court has considered the rival submission and also perused the materials placed before it.

8. Admittedly, the detenue is aged about 21 years and she has also admitted about her marital relationship with the petitioner. She would state that the petitioner / husband suspected her fidelity and as a result of the same, she went

with the 3rd respondent. This Court is not inclined to go into the legality or otherwise of the said submission. However, taking into consideration of the statement given by the detainee before this Court that she is willing to go with her parents and reside in the parental home, the custody of the child may be handed over to her and for the said submission, the petitioner / husband is also not having any serious objection. Therefore, this Court is inclined to dispose of the Habeas Corpus Petition with the following directions:

(i). The detainee is free to go with her parents and reside in the parental home;

(ii) The custody of the girl child, aged about 2 years, born out of wedlock between the petitioner and the detainee, is handed over to the Detenue as long as she remains with her parents or parental home.

(iii) Since petitioner is a biological parent, he is always having right to visit the child for the purpose of finding out her well being and upkeep.

9. The Habeas Corpus Petition stands disposed of accordingly. This Court is also inclined to note about the progress of the investigation in Crime No.314 of 2018. In the light of the above facts and circumstances and also the statement given by the detainee before this Court as to the availability of the 3rd respondent, this Court directs the 2nd respondent to file a Status Report as to the progress made in the investigation especially as to the securing of the 3rd respondent and the 1st respondent shall also monitor the same and file his affidavit.

Call on 25.02.2019. Status Report of the 2nd respondent and affidavit of the 1st respondent by then.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

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To

1.The Superintendent of Police,
Cuddalore, Cuddalore District.

2.The Sub-Inspector of Police,
Vadalur Police Station,
Vadalur.

3.The Public Prosecutor
High Court, Madras.

HCP.No.2271 of 2018

GN(14/03/2019)