

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 18.03.2019

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR. JUSTICE M.NIRMAL KUMAR

HCP.No.2417 of 2018

Mrs.Sangeetha

.. Petitioner

Versus

1.The State rep. by
Inspector of Police,
V-7, Nolambur Police Station
Mogappair, Chennai-600 037.

2.The Commissioner of Police,
Greater Chennai City,
Vepery, Chennai-600 007.

3.Anantha Karthikeyan

... Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Habeas Corpus directing the respondents to produce the petitioners husband i.e., the body of Soundara Manickam S/o Selvaraj, the detenu herein before this Court and set him at liberty.

For Petitioner: Mr.C.M.Gunasekaran

For Respondents: Mr.C.Iyyappa Raj
Additional Public Prosecutor
for R1 & R2

Mr.R.C.Paul Kanagaraj for R3

ORDER

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

The petitioner is the wife of the detenu, namely Soundara Manickam son of Selvaraj and according to the petitioner, her husband was employed in a Two Wheeler Sales Center at Chennai

from the year 2014. The petitioner would allege that on 07.09.2018, the 3rd respondent came along with the staff accompanied by one Rajeswari and Malar to the residence and taken petitioner and her child of tender age 1½ years to their office, where they have kept her husband under illegal detention and she was not even permitted to talk to her husband and thereafter they taken 14 sovereigns of Gold Jewels, her educational certificates, Aadhar card, ATM card, her brothers educational certificates and education certificates and testimonies of her husband and all her personal belongings. It is the specific case of the petitioner that the 3rd respondent under whom, the petitioner's husband was working, had illegally detained her husband from 07.09.2018 to 18.09.2018 and threatened him and bribed to extract some documents, as if he had swindled the money belonging to the said concern. The petitioner in this regard has also lodged a complaint on 28.09.2018 to the 2nd respondent and despite receipt and acknowledgment, no action has been taken so far and whereas a false complaint given by the 3rd respondent has been proceeded with vigorously and since, the 1st respondent Police has not conducted fair and proper and impartial investigation and apprehending danger to the life of the husband, came forward to file this Habeas Corpus Petition.

2. The Habeas Corpus Petition was entertained on 24.10.2018 and the learned Additional Public Prosecutor accepted notice on behalf of the respondents 1 and 2. The matter was again listed on 25.01.2019 and the learned Additional Public Prosecutor, on instructions, has submitted that the complaint given by the petitioner also resulted in registration of a case in Cr.No.43 of 2019 for the commission of offences under Sections 448, 344, 323, 384 & 506 (i) IPC and further submitted that all-out efforts were made to trace the detenu. When the Habeas Corpus Petition was listed on 18.02.2019, the prosecution prayed for time to file a status report.

3. In the Status Report dated 04.03.2019, it is represented that the complaint given by the petitioner which resulted in registration of a case in Cr.No.43 of 2019 was closed on the ground that it was exaggerative complaint and it appears that the detenu has failed to settle the dues to the said Company and R.C.S Notice was also affixed in the door of the petitioner in the presence of two witnesses.

4. The 2nd respondent's Status Report dated 06.03.2019 is filed today, which would disclose that all-out efforts have been taken to trace the detenu / husband of the petitioner and a Special Team has also been formed and visited various places in and around Chennai to trace the detenu and so far, the efforts have turned out to be futile and prays for short accommodation.

5. The learned counsel appearing for the 3rd respondent would submit that the 3rd respondent did not take the personal belongings of either the petitioner or her husband and denied the said allegation. He is also very categorical that the petitioner is not in his custody at all and the said fact has also been reiterated by the 1st respondent also.

6. In the light of the above facts and circumstances, this Court is of the considered view that no order in favour of the petitioner can be passed in this Habeas Corpus Petition and therefore, the Habeas Corpus Petition is closed. However, the petitioner is at liberty to workout her further remedies in accordance with law before the competent forum.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

1.The Inspector of Police,
V-7, Nolambur Police Station
Mogappair, Chennai-600 037.

2.The Commissioner of Police,
Greater Chennai City,
Vepery, Chennai-600 007.

3.The Public Prosecutor
High Court, Madras.

सत्यमेव जयते

+1cc to Mr.K.Vellayaraj, Advocate sr.no.25476

HCP.No.2417 of 2018

gjii(co)
nr 29/04/2019