

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED : 12.06.2019

CORAM

THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN**AND****THE HONOURABLE MR. JUSTICE B. PUGALENDHI****H.C.P (MD) No. 392 of 2019**

WEB COPY

Varatharajaperumal

... Petitioner

Vs.

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

2. The Inspector of Police,
Pudur Police Station,
Thoothukudi District.

3. Karuppasamy

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, directing the first and second respondents to produce the body or person of his wife/detenu namely Thangaponnu (aged 24 years) and his son/detenu namely Latheesh Hari (aged 1 ½ years) before this Court and set them at liberty.

For Petitioner : Mr.D.Selvanayagam

For Respondents : Mr.K.Dinesh Babu

Additional Public Prosecutor
for R.1 and R.2**ORDER****(Order of the Court was made by M.SATHYANARAYANAN, J)**

The petitioner is the husband of Tmt.Thangaponnu, aged about 24 years and the father of the minor detenu namely Latheesh Hari, aged about 1 ½ years and according to him, the marriage between him and the major detenu took place about 7 years back and out of wedlock, two sons were born namely Praneesh, aged about 6 years and Latheesh Hari, aged about 1 ½ years.

2. It is the specific case of the petitioner that from 16.04.2019 onwards, his wife/major detenu as well as his minor son namely Latheesh Hari are missing and despite the valiant efforts have been made to trace the whereabouts of the detenu, they were not available and therefore, he was restrained to lodge a complaint on the file of the second respondent and based on the



said complaint, a case in Cr.No.25 of 2019 was registered by the second respondent under "Woman Missing and Boy Missing".

3. The detenu is present before this Court and also enquired by this Court and she would submit that on account of drinking behaviour and ill-treatment on the part of her husband/petitioner herein, she voluntarily left the matrimonial home along with the minor child and now she employed in a mill at Coimbatore and she is willing to hand over the custody of the minor son to the petitioner and she could be permitted to see both the children as and when she visits the place of the petitioner.

4. The petitioner is also present and he denied the allegations as to the drinking behaviour and attitude and also undertakes that he will definitely permit his wife to visit and see the children at regular intervals.

5. The learned Counsel appearing for the petitioner would submit that in the light of the submission made by the major detenu, this Court may pass appropriate orders.

6. Mr.K.Dinesh Babu, learned Additional Public Prosecutor, appearing for the State, would submit that the case registered by the second respondent would be investigated in accordance with law and a final report will be filed as expeditiously as possible.

7. In the light of the fact that the wife of the petitioner is a major and even according to her, she left the matrimonial home on her volition due to some reasons and that she also handed over the custody of the minor child namely Latheesh Hari to the petitioner, nothing survives for further adjudication in this Habeas Corpus Petition. However, the major detenu being the biological mother of the children born out of wedlock, she is always entitled to have a visitation right and therefore, as and when she visits the abode of the petitioner, she should be permitted to have access to the children.

8. The Habeas Corpus Petition is disposed of accordingly.

Sd/-

Assistant Registrar (cs-ii)

// True Copy //

Sub Assistant Registrar(CS)



To

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

2. The Inspector of Police,
Pudur Police Station,
Thoothukudi District.

3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to M/S D.SELVANAYAGAM, Advocate, Sr.No.68255

H.C.P (MD) No.392 of 2019
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BUC (25/06/2019) 3P/5C