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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.06.2019

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THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

H.C.P(MD)No.450 of 2019

Abdul Hameed

... Petitioner

Vs.

1.State represented by
The Commissioner of Police,
Madurai City,
Madurai.

2.The Inspector of Police,
S.S.Colony Police Station,
S.S.Colony,
Madurai District.

3.Palani Kumar

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Habeas Corpus to direct the respondents 1 and 2 to produce the person or body of the petitioner's daughter, namely, Syed Ali Fathima, daughter of Abdul Hameed, aged 21 years, before this Court and set her at liberty.

For Petitioner : Mr.S.M.A.Jinnah

For Respondents : Mr.K.Dinesh Babu
Additional Public Prosecutor for R.1 & R.2

Mr.P.Thambidurai for R.3

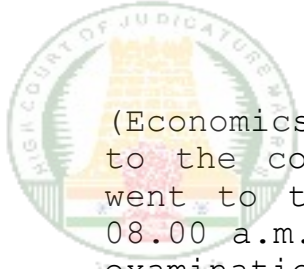
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ORDER

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

This Habeas Corpus Petition has been filed seeking a writ of Habeas Corpus to direct the respondents 1 and 2 to produce the person or body of the petitioner's daughter, namely, Syed Ali Fathima, daughter of Abdul Hameed, aged 21 years, before this Court and set her at liberty.

<https://hcservices.ecourts.gov.in/hcservices/> 2. The petitioner is the father of the detenu, namely, Syed Ali Fathima, aged about 21 years and according to him, he is having two sons and one daughter and his daughter is studying B.A.



(Economics) in Meenakshi Arts College, Madurai and she usually goes to the college and returns around 03.00 p.m., and as usual, she went to the college for the purpose of attending the college at 08.00 a.m., on 21.05.2019 on the pretext of writing the final year examinations, but she did not return. The petitioner as well as his wife made a valiant search to secure her daughter and their efforts proved to be futile and therefore, they approached the second respondent and lodged a complaint, based on which, a case in Cr.No.451 of 2019 was registered for "woman missing". The petitioner alleging inaction on the part of the second respondent to take steps to secure his daughter, came forward to file this Habeas Corpus Petition.

3. Today, the learned Counsel for the third respondent made a mention that the detenu will be produced before this Court and when the matter was called during the Afternoon Session, the detenu appeared before us and on enquiry, she would state that she is in love with the third respondent and on her volition, she went out of her parental home and steps are being taken to register their marriage under the Special Marriage Act and also produced the relevant documents before this Court. The detenu also expressed her disinclination to go with her parents who are also present before this Court.

4. The third respondent is also present before this Court and he would state that her parents accepted their marriage and he and his wife - the detenu are living with his parents only and he would take care of the detenu and also see to it that she completes her academic career.

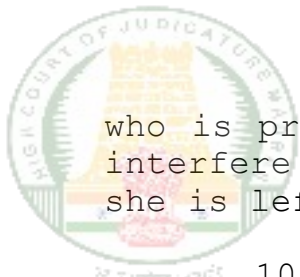
5. The learned Counsel for the petitioner would submit that luring by sweet words, the detenu was forcibly taken away by the third respondent and prays for appropriate orders to secure her custody.

6. The learned Counsel for the third respondent would submit that in the light of the statement given by the third respondent, she may be set at liberty and also brought to the knowledge of this Court that steps have already been taken to get registered the marriage between the third respondent and the detenu.

7. This Court has carefully considered the rival submissions and also perused the materials available on record.

8. In the light of the fact that the detenu is a major and she is also a final year student of B.A.(Economics) and she appears to be aware of the consequences of the act of leaving her parental home and living with the third respondent, she cannot be compelled to go with her parents who are present before this Court.

9. The detenu also expressed some apprehension as to her safety and well-being and when we asked the father of the detenu,



who is present before this Court, he would state that he will not interfere with the affairs of his daughter, namely, the detenu and she is left to her own fate.

10. In the light of the facts and circumstances of the case, the detenu is at liberty to take a call with regard to her own future and well-being. In the light of the fact that the alleged marriage between the third respondent and the detenu is an inter-religious marriage, till the detenu and the third respondent reach their home, the second respondent police shall ensure adequate police protection and continue with the investigation of the case and file final report in accordance with law before the jurisdictional Magistrate Court as expeditiously as possible.

11. In fine, this Habeas Corpus Petition is disposed of, accordingly.

Sd/-

Assistant Registrar(AE)

// True Copy //

Sub Assistant Registrar(CS)

rsb

To

1.The Commissioner of Police,
Madurai City,
Madurai.

2.The Inspector of Police,
S.S.Colony Police Station,
S.S.Colony,
Madurai District.

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

+1CC TO MR.P.THAMBI DURAI, Advocate Sr. No. 71873

H.C.P(MD) No.450 of 2019
26.06.2019

RP(CO)

TR (15.07.2019) 3P 5C