



WEB COPY

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.489 of 2019

Arunagiri

... Petitioner

Vs.

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

2.The Inspector of Police,
Taluk Police Station,
Dindigul,
Dindigul District.

3.Muthuraman,
Sub Inspector of Police,
Devakottai Town Police Station,
Sivagangai District.

4.Pandimeena

5.Vennila

6.Sevugan

... Respondents

Prayer: Habeas Corpus Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Habeas Corpus, directing the 1st and 2nd respondents to secure the detenu of the petitioner's wife namely Santhana Lakshmi, aged about 27 years and petitioner's minor son namely Sai Saran, aged about 3 years, now detained by the respondents 4 to 6 before this Hon'ble Court and give custody of the minor son to the petitioner and set them at liberty.

For Petitioner : Mr.V.Karuna

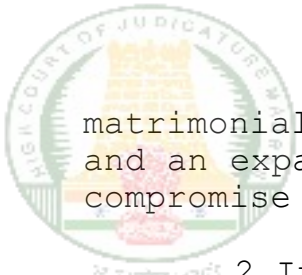
For Respondents 1 & 2 : Mr.K.Dinesh Babu

Additional Public Prosecutor

O R D E R

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

The petitioner is the husband of the 1st detenu viz., Santhana Lakshmi, aged about 27 years and father of the 2nd detenu viz., Sai Saran, aged about 3 years and according to him, he got married with the 1st detenu on 30.11.2016 and out of the wedlock the minor detenu was born. Sometimes thereafter, there was a



matrimonial discord and therefore, he filed a petition for divorce and an exparte decree came to be passed and subsequently there was a compromise and his wife join with him.

2. It is the specific case of the petitioner that at the instance of the 4th respondent/mother-in-law, the 5th respondent/sister of the 4th respondent and the 6th respondent/husband of the 5th respondent, she has been forcibly taken away along with the minor child and the private respondents insisted that he should pay Rs.3,00,000/-, failing which his child will be killed and apprehending the safety and wellbeing of his wife and minor son, he lodged a complaint with the second respondent police and despite the said complaint no action has been taken even though the contents of the complaint disclose commission of cognizable offence and hence, he has come forward with this Habeas Corpus Petition.

3. The learned counsel for the petitioner would submit that since the petitioner is left alone and very much concerned with the safety and wellbeing and whereabouts of the detenus, this Court may restore their custody.

4. Per contra, Mr.K.Dinesh Babu, learned Additional Public Prosecutor appearing for the State on instruction would submit that it is purely a matrimonial discord and the major detenu went out the matrimonial home on his own volition and living with her mother/the 4th respondent and as he did not maintain her, he has filed Cr.M.P.No.6260 of 2018 on the file of Judicial Magistrate, Aruppukottai, Virudhunagar District for maintenance and the same is pending.

5. This Court has considered the rival submissions and also perused the materials placed before it.

6. It appears to be a matrimonial discord and therefore, the major detenu is living with her mother. So far as the custody of the minor detenu is concerned, this Court is of the view that in the facts and circumstances of the case, this is not a fit case to restore the custody.

7. Therefore, this Habeas Corpus Petition is dismissed. However, if the petitioner is so advised and if he is entitled under law, he is at liberty to workout his remedy before the competent forum.

Sd/-

Assistant Registrar (Writs)

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To

1. The Superintendent of Police,
Dindigul District,
Dindigul.
2. The Inspector of Police,
Taluk Police Station,
Dindigul,
Dindigul District.
3. The Sub-Inspector of Police,
Devakottai Town Police Station,
Sivagangai.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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