



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.06.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

and

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

H.C.P(MD)No.548 of 2019

R.Shaji

... Petitioner

Vs.

1. The Superintendent of Police,
Kanyakumari District,
at Nagercoil.
2. The Inspector of Police,
Marthandam All Women Police Station,
Kanyakumari District.
3. Mary
4. Meeha
5. Shyla

... 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 respondents 1 & 2 to produce the person or body of the detainee Abisha W/o. R.Shaji, aged about 25 years before this Hon'ble Court and set her at liberty.

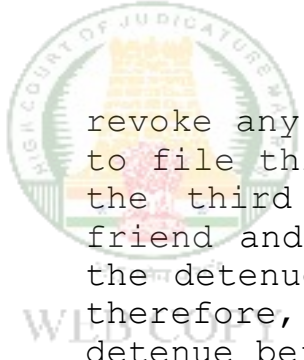
For Petitioner	: Mr.S.C.Herold Singh
For Respondents 1 & 2	: Mr.K.Dinesh Babu
	Additional Public Prosecutor

O R D E R

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

The petitioner is the husband of the detainee viz., Abisha, aged about 25 years, and according to him, out of love, he married the detainee on 05.04.2014 and out of the wedlock two girl children, aged 3 years and 1 ½ years, respectively were born to them.

2.The learned counsel for the petitioner would submit that right from the date of marriage, the third respondent, mother of the detainee, is opposing the marriage and on 21.02.2019, the respondents 3 to 5 forcibly taken the detainee and the complaint dated 30.05.2019, given to the first respondent has failed to



revoke any kind of response and hence, the petitioner came forward to file this Habeas Corpus Petition. Further, he would submit that the third respondent is the mother, fourth respondent is the friend and the fifth respondent is the sister of the detainee and the detainee is kept under their illegal custody and detention and therefore, prays for appropriate orders for production of the detainee before this Court.

3.Mr.K.Dinesh Babu, learned Additional Public Prosecutor, who accepts notice on behalf of the respondents 1 and 2 on instructions would submit that the detainee has given a written complaint dated 07.03.2019, alleging physical and verbal abuse at the hands of the petitioner. In the complaint it is stated that the detainee also attempted to commit suicide, unable to bear the torture and a C.S.R. Number was also assigned and the petitioner as well as the detainee were summoned on 21.03.2019, wherein the detainee appeared and would state that the petitioner mentally disturbed her and the detainee on her own volition left the company of the petitioner and hence, prays for dismissal of the Habeas Corpus Petition.

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

5.A perusal and consideration of the materials, especially the complaint against the petitioner dated 07.03.2019, lodged on the file of the second respondent, would disclose that prima-facie it is a matrimonial discard and therefore, it cannot be stated that the detainee is under illegal detention. It is also stated that the minor children are under the custody of the petitioner. Therefore, this Court is of the considered view that this Habeas Corpus Petition is not maintainable. However, it is open to the petitioner to workout his further remedy in accordance with law, as to the restitution of conjugal rights and other rights.

6.This Habeas Corpus Petition is dismissed subject to the above observation.

Sd/-

Assistant Registrar (AS)

// True Copy //

Sub Assistant Registrar (CS)

sj



To

1. The Superintendent of Police,
Kanyakumari District,
at Nagercoil.

2. The Inspector of Police,
Marthandam All Women Police Station,
Kanyakumari District.

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

+ 1 CC to Mr.S.C.Herold Singh, Advocate in SR.No.70826

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