



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.06.2019

CORAM

THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN
AND

THE HONOURABLE MR. JUSTICE B. PUGALENDHI

H.C.P (MD) No. 573 of 2019

S. Pandiyaraj

... Petitioner

Vs.

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

2. The Inspector of Police,
Pandalkudi Police Station,
Virudhunagar District.

3. Balakumar

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, directing the respondents 1 and 2 to produce the detenu namely Muthumeena, D/o Ramar (aged about 25 years), wife of S. Pandiyaraj, who is under illegal custody of the third respondent before this Court.

For Petitioner : Mr. V. Thirumal

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 the major detenu, viz., Muthumeena, aged about 25 years and she is none other than his sister's daughter and the marriage between himself and the detenu was solemnised on 30.03.2015 and out of wedlock, a male child was born and now he is aged about 3 ½ years.

2. The petitioner would state that he is employed as a mason and the detenu is employed as a cook in Anganvadi Centre and on 11.06.2019 at about 08.50 a.m., he dropped his wife in the place of her employment and thereafter, she did not return. The petitioner, being a husband, very much concerned about the safety, well being and whereabouts of his wife and the further fact that 3 ½ years old



male child is also nursed, lodged a complaint on the file of the second respondent and since no effective steps have been to trace the detenu, the petitioner came forward to file this Habeas Corpus Petition.

3. Mr.K.Dinesh Babu, learned Additional Public Prosecutor, accepts notice on behalf of the respondents 1 and 2 and on instructions, would submit that on earlier occasion, the detenu has left with the matrimonial home and went with the third respondent and in this regard, a case in Cr.No.31 of 2019 was registered for "woman missing". The detenu was traced and her custody was handed over to her father and once again, the detenu has eloped with the third respondent, leaving her husband/petitioner as well as the minor child, aged about 3 ½ years.

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

5. It appears that it is a case of second time elopement and though the learned Counsel appearing for the petitioner would plead that the wife of the petitioner is none other than his sister's daughter and she has left his 3 ½ years old child, who is in his custody and he is extremely finding it difficult to maintain the child, the fact remains that the detenu has left the matrimonial home and eloped with the third respondent and the detenu being a major, she is also entitled to take a call of her own future.

6. In the light of the above facts and circumstances, though this Court sympathises with the petitioner as well as his minor child, is unable to come to his aid, by passing positive order as to the custody of his wife.

7. In the result, the Habeas Corpus Petition is dismissed.

Sd/-

Assistant Registrar (Records)

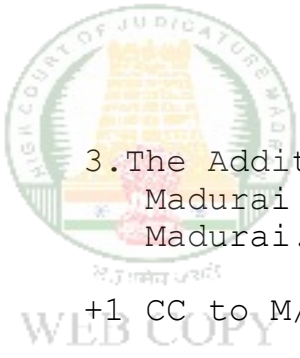
/ True Copy /

Sub Assistant Registrar (CS-)

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To

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

2.The Inspector of Police,
<https://hcservices.ecourts.gov.in/hcservices/>
Pandaikudi Police Station,
Virudhunagar District.



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

+1 CC to M/s.V.THIRUMAL, Advocate (SR-72223[F] dated 28/06/2019)

H.C.P(MD) No.573 of 2019
28.06.2019

ES/10.07.2019/3P/5C