



BEFORE THE MADURAI BENCH OF THE MADRAS HIGH COURT

DATE : 12.07.2019

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MR. JUSTICE R.PONGIAPPAN

H.C.P. (MD) NO. 427 OF 2019

Ramalakshmi Priya

.. Petitioner

- Vs -

1. The Superintendent of Police
Thoothukudi District
Thoothukudi.

2. The Inspector of Police
All Women Police Station
Srivaikundam,
Thoothukudi District.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of habeas corpus directing respondents 1 & 2 to produce the body or person of the detenu, viz., Saravana Kumar, aged about 32 years, before this Hon'ble Court and set him at liberty.

For Petitioner : Mr. A.Thiruvadi Kumar

For Respondents : Mr. S.Chandrasekar, APP for RR-1 & 2
Mr.S.M.Mohan Gandhi for detenu

ORDER

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

The petitioner is the wife of the detenu, viz., Saravana Kumar, aged about 32 years and according to her, the marriage between her and the detenu was an arranged marriage, which came to be solemnised on 8.5.17 at Sri Muthumalai Amman Sri Pathirakali Amman Temple, Pudukottai, and within six months, her husband left for job, but he did not return and, therefore, she was forced to stay in her matrimonial home. The grievance expressed by the petitioner is that her in-laws are not revealing about the whereabouts of her husband and, therefore, she has also invoked the jurisdictional Magistrate u/s 97 Cr.P.C. to secure the detenu and with regard to the missing of her husband, she submitted a representation on 11.2.19 to the 1st respondent, which has been forwarded to the 2nd respondent and despite receipt and acknowledgement, no steps have been taken by the

2nd respondent to trace the detenu and, hence, the petitioner has come forward to file the present petition.

2. The petition was entertained and the matter is listed today for production of the detenu. The detenu is produced before this Court and he stated that within short time of the marriage, there was incompatibility between him and the petitioner and at present he is employed in Bahrain and he has filed HMOP No.44/19 before the learned Subordinate Judge, Tiruchendur u/s 12 (1-a) of the Hindu Marriage Act and he further stated that he is not prepared to live with his wife, viz., the petitioner and that he is living away from her on his own volition.

3. The petitioner is also present in Court and when enquired, she stated that she is aware of the divorce proceedings and she has also taken steps to defend the said proceedings and deny the allegations.

4. This Court heard the submissions of the learned counsel appearing for the petitioner and the learned counsel appearing for the detenu.

5. In the light of the above, it prima facie appears that the detenu has left the company of the petitioner on his own volition on account of matrimonial discord and has also filed a petition for divorce in HMOP No.44/19, which is pending on the file of the learned Subordinate Judge, Tiruchendur and, therefore, it cannot be said that the detenu is under illegal custody/detention at the hands of any third party.

6. For the reasons aforesaid, this habeas corpus petition is dismissed subject to the above observations and the parties are at liberty to work out their remedy in the pending divorce proceedings.

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
All Women Police Station
Srivaikundam, Thoothukudi District.



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

+1 CC to Mr.A.THIRUVADI KUMAR, Advocate (SR-75271[F] dated
15/07/2019)

H.C.P. (MD) NO. 427 OF 2019
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GLN

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