

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATE : 15.04.2019****CORAM**

**THE HONOURABLE MR. JUSTICE P.N.PRAKASH
AND
THE HONOURABLE MR. JUSTICE B.PUGALENDHI**

H.C.P. (MD) NO. 976 OF 2018

Deivakani

.. Petitioner

- Vs -

1. The Indian Railway
rep. by its Chairman
Rail Bhavan, Raisina Marg
New Delhi.
2. Union of India
rep. by the Prl. Secretary
Home Department
Jaisalmer House, Mansingh Road
New Delhi 110 011.
3. State of Tamil Nadu
rep. by the Prl. Secretary
Home Department
Secretariat, Fort St. George
Chennai 600 009.
4. The Commissioner of Police
O/o the Commissioner of Police
Tirunelveli District.
5. The Superintendent of Police
o/o the Superintendent of Police
Tirunelveli District.
6. The Inspector of Police
C-1, Palayamkottai Police Station
Tirunelveli District.

.. Respondents

Petition filed under Article 226 of the Constitution of India, for the issuance of a writ of habeas corpus directing the first respondents to produce the body and person of the detenu by name N. Annadurai, S/o Natarajan, aged about 36 years before this Hon'ble Court and to release him at liberty.



For Petitioner : Mr. R.Alagumani

For Respondents : Mr. M.Chandrasekaran, APP for RR-3 to 6
Mr.S.Mohanraj for R-1
Mr. R.Arjunarajan for R-2

WEB COPY

ORDER

(DELIVERED BY P.N.PRAKASH, J.)

This petition has been filed by the petitioner, the wife of the detenu, Annadurai, aged about 36 years to secure and produce him before this Court and set him at liberty.

2. It is the case of the petitioner that her husband, N.Annadurai is a serving Central Reserve Police Force Personnel and he came home on leave in May, 2018 and after his leave period was over, he boarded the Thirukkural Express on 29.6.2018 to New Delhi for joining duty. Thereafter, his whereabouts are not known. Since the police had not taken effective steps to trace him, this habeas corpus petition has been filed.

3. On notice, the 1st respondent (Railways) filed a status report dated 19.9.18, wherein, it is stated as follows :-

"In this regard, IPF/TEN has reported that a case was registered at Local Police/Palayamkottai vide Crime No.444/2018 for Man missing on the basis of complaint lodged by Smt. A.Deivakani, W/O Shri N.Annadurai, 13-B, Pattu Pillaiyar Kovil, Palayamkottai, Tirunelveli District.

Further, it is learnt that the local police/Palayamkottai that a person by name Shri. Hariharan, who is working as Sepoy in 3 Infantry Divn. Signal Regiment / Army, Karu. Ladak District, J & K State, had boarded Train No.12641 Exp. (ex. Kanniyakumari - Nizamuddin) at CVP at 21.15 hrs., on 29.06.2018 and travelled in S-8 coach upto NZM. While travelling in the said train, Shri. N.Annadurai, who also travelled in the same coach, was befriended. further, the Sepoy informed that the said Shri. N.Annadurai got down at NZM Railway Station on 01.07.2018. The mobile number of Shri.Hariharan is 94421-06141."

4. Not satisfied with this status report, this Court directed the 2nd respondent to file a comprehensive counter. On behalf of the 2nd respondent, the Deputy Inspector General of Police, Group Centre, Central Reserve Police Force, Avadi, Chennai -65, has filed a detailed counter dated 2.3.2019, wherein, in para-3, it is stated



as follows :-

"3. With regard to para 4 of petition, I respectfully submit that after availing sanctioned earned leave en-route along with admissible joining time, the petitioner's husband was due to report at 5 Signal Bn CRPF located at Chandigarh by 03/07/2018 in evening roll call, but he did not do so. As per information received from his brother-in-law through Control Room of 5 Signal Bn, CRPF that, the petitioner's husband reportedly started journey from his home town to 5 Signal Bn on 28/06/2018, but he did not report at Signal Bn CRPF, located at Chandigarh. further, on 04/07/2018 at about 1200 hours, one ASI of Delhi Police telephonically informed that RPF, New Delhi Railway Station has recovered one bag of petitioner's husband containing Aadhar Card, ATM, PAN Card, Identity Card and personal belongings. Accordingly, the matter was immediately conveyed to the petitioner telephonically and followed by a letter No.I.X-12/2018-EC-II-5 Sig dated 06/07/2018 with an advise to lodge a complaint with concerned police station nearer to her home town to trace out her missing husband. It is also advised that in case her husband is not traced out even after all out best efforts, to take a report accordingly from concerned police station. However, simultaneously a search party of 5 Signal Bn CRPF was sent to New Delhi thrice in various occasions to trace out the petitioner's husband nearby New Delhi Railway Station, Hospitals and Bus Stand, etc., by circulating his latest photos, but they were unable to trace out. Accordingly, an FIR regarding missing of the petitioner's husband had been lodged with P.S. - Nabi Karim, New Delhi vide Case No.34 A dated 04.07.2018. On lodging FIR, civil police had also carried out searching of the petitioner's husband in and around Delhi, nearby Railway Stations, Hospitals and Bus Stand, etc., but the petitioner's husband could not be traced out. After all efforts, ASI Gajender Singh of P.S. - Nabi Karim, Delhi Police had intimated his report dated 26.11.2018 (copy enclosed) that though all efforts were made to trace out the petitioner's husband, no clue on his whereabouts arrived so far. However, further investigation regarding missing of petitioner's husband is still continuing. The above position was



conveyed to the petitioner vide 5 Signal Bn, CRPF Letter No.I.X-12/2018-EC-II 5 Sig dated 29.11.2018."

5. Learned counsel for the 2nd respondent brought to the notice of this Court the communication dated 29.11.2018 sent from the office of the Commandant-05 Signal BN, CRPF, Hallomajra, addressed to the petitioner, wherein, in para-4 it is stated as follows :-

"04. As per GOI, Ministry of Personnel, P.G. & Pensions O.M. No.F.No.1/17/2011-P & PW (E) dated 24.6.2013 you are eligible family pension after six months from the date of missing/F.I.R. Therefore, you are requested to apply for pension, gratuity, GPF, leave encashment, etc., in time as per instructions mentioned above."

6. On a conspectus of the facts obtaining in this case, we are convinced that two cases have been registered, viz., one in Crime No.444/2018 on the file of the Palayamkottai Police Station and another on the file of Nabi Karim Police Station in Case No.34 A dated 04.07.2018 for man missing and both the cases are under investigation. We find that the police and the Central Reserve Police Force have been taking best efforts to trace the husband of the petitioner.

7. Therefore, this is not a fit case to transfer the investigation to any other agency. However, in view of the communication dated 29.11.2018, liberty is given to the petitioner to make an application to the authorities for pension and on such application being made, the same shall be processed expeditiously. Investigation in both the cases may continue and the petitioner may be informed of the developments, if any, from time to time.

8. The above habeas corpus petition stands closed with the aforesaid observations and directions.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar (CS)

GLN

To

1. The Indian Railway
rep. by its Chairman
Rail Bhavan, Raisina Marg
New Delhi



2. Union of India
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Tirunelveli District.
6. The Inspector of Police
C-1, Palayamkottai Police Station
Tirunelveli District.
7. The Additional Public Prosecutor
Madurai Bench of Madras High Court
Madurai.

+1CC TO MR.S.MANO HAR, Advocate Sr. No.61146
+1CC TO MR.R.ARJUNARAJAN, Advocate Sr. No.61576

H.C.P. (MD) NO.976 OF 2018
15.04.2019

KG(CO)
TR (02.05.2019) 5P 10C