



BEFORE THE MADURAI BENCH OF THE MADRAS HIGH COURT

DATE : 07.08.2019

CORAM

**THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MR. JUSTICE B.PUGALENDHI**

H.C.P. (MD) NO. 739 OF 2019

M.Vijaya

.. Petitioner

- Vs -

1. The Home Secretary
Secretariat, Fort St. George
Chennai 600 009.
2. The Superintendent of Police
Dindigul District Prison
Dindigul.
3. The Superintendent of Police
Dindigul District, Dindigul.
4. The Inspector of Police
Dindigul Town North Police Station
Dindigul.
5. Mahesh
6. R.Gopalakrishnan
7. Veerapandy

.. Respondents

Petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of habeas corpus directing the respondents to produce the petitioner's son M.Poovarasan, aged 20 years, who is under illegal detention at Dindigul District Prison in connection to the case in Crime No.470/2019 on the file of Dindigul Town North Police Station and set him at liberty.

For Petitioner : Mr. M.Vijaya, Party-in-Person

For Respondents : Mr. K.Dinesh Babu, APP

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

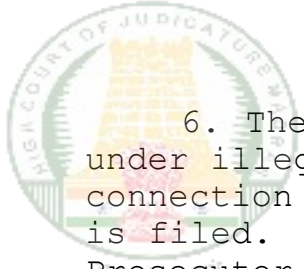
The petitioner is the mother of the detenu, viz., Poovarasan, aged about 20 years and according to her, her son is under the illegal custody/detention at the hands of the 4th respondent.

2. The petitioner/party-in-person has drawn the attention of this Court to the representation dated 23.7.19 and 30.7.19 and submits that her son is repeatedly taken into custody under the pretext of theft, which are nothing but false and on account of the repeated registration of false cases foisted on the detenu and consequent incarceration, the career of the detenu is affected for the reason that the detenu is a third year student pursuing B.A. (English Literature) course. Therefore, the petitioner submits that left with no other option, she is constrained to approach this Court by filing this petition.

3. Mr.Dinesh Babu, learned Addl. Public Prosecutor accepts notice on behalf of the 4th respondent and on instructions, submit that the petitioner was arrested in connection with the case in Crime Nos.470/19 and 419/19 for the offence u/s 379 IPC and insofar as the case in Crime No.470/19 is concerned, the detenu has been enlarged on bail and that the detenu is in custody in pursuant to a valid order of remand passed by the jurisdictional Magistrate in connection with Crime No.419/19. It is the further submission of the learned Addl. Public Prosecutor that the detenu is a habitual offender and he is facing nine cases of similar nature out of which four cases are pending trial and in respect of three cases, charge sheet has been filed and the jurisdictional Magistrate Court is yet to take the same on file. In sum and substance, it is the submission of the learned Addl. Public Prosecutor that since the detenu is detained in pursuant to a valid order of remand by the jurisdictional Magistrate Court in Crime No.419/19, the present petition is not maintainable and, therefore, prays for dismissal of the petition.

4. This Court paid its anxious consideration to the submissions advanced on either side and also perused the materials available on record as also the materials which were placed before the Court by the respondents.

5. It is settled position of law that the alleged illegal custody/detention of the concerned detenu has to be considered on the date of entertaining of the habeas corpus petition and admittedly, in connection with Crime No.419/19 registered by the 4th respondent, the detenu is under incarceration in pursuant to a valid order of remand and, therefore, the present habeas corpus petition is not maintainable.



6. The prayer made by the petitioner is that her son/detenu is under illegal detention/custody at the hands of the 4th respondent in connection with Crime No.470/19 and, therefore, the present petition is filed. However, it is the submission of the learned Addl. Public Prosecutor that in connection with Crime No.470/19, the detenu was enlarged on bail by the jurisdictional Magistrate Court and, therefore, on that ground also, the prayer sought for by the petitioner cannot be granted.

7. For the reasons aforesaid, this habeas corpus petition is dismissed. However, the petitioner is always at liberty to work out her further remedy before the competent forums, if so advised.

Sd/-

Assistant Registrar (Crl Side)

// True Copy //

Sub Assistant Registrar(CS)

To

1. The Home Secretary
Secretariat, Fort St. George
Chennai 600 009.
2. The Superintendent of Police
Dindigul District Prison
Dindigul.
3. The Superintendent of Police
Dindigul District, Dindigul.
4. The Inspector of Police
Dindigul Town North Police Station
Dindigul.

+1 CC to M/s.M.VIJAYA, Party in person, (SR-80372[F] dated 07/08/2019)

H.C.P. (MD) NO. 739 OF 2019
07.08.2019

gln

KK/SAR/22.08.2019/3P-6C/