



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
Criminal Original Jurisdiction

Monday, the Twenty Third day of September Two Thousand and Nineteen

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PRESENT

The Hon`ble Mr Justice S.VAIDYANATHAN
AND
The Hon`ble Mr.Justice N.ANAND VENKATESH

HCP(MD). No.931 of 2019

C.Elayasamy

... Petitioner

Vs

1.The Superintendent of Police
O/o.The Superintendent of Police Madurai
District Madurai

2.The Inspector of Police
Elumalai Police Station Usilampatti Taluk
Madurai District Madurai

3.The Manager
Isaac Patrick Home
Sirungeri Nagar
Bye Pass Road
Madurai

... Respondents

Prayer :-

This Habeas Corpus petition, is filed Under Article 226 of Constitution of India praying this court to issue a writ of Habeas Corpus directing the respondents No.1 to 3 to release the Detenue namely Ms.N.Ilayarasi, D/o.Natarajan aged above 18 years from illegal custody in respondent No.3 forthwith and set her at liberty

ORDER:- This Habeas Corpus petition coming on for orders on this day and upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of MR. T.Lajapathi Roy, Advocate for the Petitioner and of Thiru. K.Dinesh Babu Additional Public Prosecutor, for the respondents 1 and 2 and Mr.Gowri shankar, counsel for detenue, this Court made the following order:

We passed the following orders on 20.09.2019:-

"Pursuant to the order passed by this Court,

on 20.09.2019, the detenue was produced before this



Court.

2.We examined the detainee and she stated that her name is N.Ilayarasi and her date of birth is 17.08.2001. She further stated that she fell in love with one Samayan, who is stated to be aged about 24 years and both of them wanted to marry, which was opposed by the parents of the detainee, and therefore, she went along with Samayan. We came to know that the detainee is now five months pregnant.

3.We enquired the parents of the detainee and advised them to get the detainee marry to Samayan, since she has also now attained the age of majority.

4.The learned Counsel on either side submitted that they will advise their clients and file an appropriate affidavit before this Court during the next date of hearing.

5.The second respondent Police is directed to take the detainee and make her stay in Home till the next date of hearing.

6.Post the case on 23.09.2019."

2. Today, the detainee, Samayan and his parents were present before this Court. The parents of the detainee did not chose to appear before this Court. The learned counsel for the petitioner submitted that the parents of the detainee are not happy with this marriage and they will not support this marriage.

3. The date of birth of the detainee is 17.08.2001 and she has already become a major. The above said Samayan is aged about 23 years and his date of birth is 06.06.1995. Therefore, both of them can legally marry each other.

4. The father of Samayan (petitioner) and Samayan have filed affidavits before this Court. Both the affidavits are extracted hereunder :-

"Affidavit of the Petitioner

I, C. Elayasamy, S/o.Chinnasamy, aged about 47 years, residing at East Street, Seelanayakkanpatti Post, Peraiyur Taluk, Madurai District and do hereby solemnly affirm and sincerely state as follows:-



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" 1. I submit that I file this affidavit on behalf of myself and my wife namely Ms.Sakkaraiyammal and I state that I am an agriculturist in Seelanayakkanpatti and my wife is a home maker and I am doing cultivation in 2 acres of agriculture land and we belong to reputed family without any criminal cases against us.

2. We have 5 children and of my sons were already married except my son Samayan.

3. We do not have objection to our son's marriage with Ms.N.Ilayarasi, D/o.Natarajan, I and my wife undertake that our son's future wife will be well received in our family."

"Affidavit of E.Samayan

I, E. Samayan, S/o.C. Elayasamy, aged about 23 years, aged about 23 years, residing at East Street, Seelanayakkanpatti Post, Peraiyur Taluk, Madurai District and do hereby solemnly affirm and sincerely state as follows:-

" 1. I submit that I have proposed to marry Ms.N.Ilayarasi, D/o.Natarajan, who completed 18 years by a legal marriage on or before 10th of October 2019, and I also undertake that the marriage will be registered as per law.

2. I am a graduate completed B.A Tamil literature with a second class Degree at Government College, Melur in April 2016 and I marry Ms.N.Ilayarasi, S/o.Natarajan with the consent of my parent and I undertake that I will take care of my wife Ms.N.Ilayarasi, D/o.Natarajan."

5. It is very clear from the above affidavits that the parties have now agreed to get the detenue and Samayan married on or before 10.10.2019 and the same will also be registered under the appropriate Law.

6. The learned counsels appearing on either side submitted that the marriage will be conducted day after tomorrow ie., on 25.09.2019, under the Hindu Law and Customs, and thereafter, it

<https://hcservices.courtindia.org/hcservices/>



will be registered. For this purpose, the learned counsel for the petitioner submitted that the girl's presence is required for the marriage.

7. We record the submissions made on either side. The detenue shall be taken to the 3rd respondent Home now by the 2nd respondent. Day after tomorrow ie., on 25.09.2019, the detenue shall be sent along with the petitioner and the above said Samayan, in order to facilitate the marriage. The 2nd respondent shall also be present at the time of marriage. Immediately after the marriage, the detenue can go along with the said Samayan and his parents to the matrimonial home.

8. Post this case on 30.09.2019 to pass further orders.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar(CS)

TO

1. The Superintendent of Police
O/o.The Superintendent of Police
Madurai District Madurai
2. The Inspector of Police
Elumalai Police Station
Usilampatti Taluk
Madurai District Madurai
3. The Manager
Isaac Patrick Home
Sirungeri Nagar
Bye Pass Road Madurai

Copy to:

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



2.The Section Officer, (2 Copies)
Criminal Section,
Madurai Bench of Madras High Court, Madurai

+1cc to Mr.T.Lajapathi Roy, Advocate, SR.No. 16157

ORDER DATED : 23/09/2019

HEARING DATE : 30/09/2019

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ORDER
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HCP(MD) . No.931 of 2019

Giving direction and etc.
as stated within.

JMN(23.09.2019) 5P : 8C