



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.09.2019

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P. (MD)No. 21799 of 2018
and W.M.P. (MD) No.19733 of 2018

Abdul Kabur

... Petitioner

Vs.

1. The State of Tamil Nadu Rep. by its
The Principal Secretary, Home Department,
Secretariat, Fort Saint George, Chennai.
2. The Director General of Police,
Office of the Director General of Police,
Beach Road, Chennai
3. The Inspector General of Police,
Office of the Inspector General of Police,
South Zone,
New Natham Main Road, Madurai.
4. The Superintendent of Police,
Office of the Superintendent of Police,
Madurai District.
5. The Deputy Superintendent of Police,
Office of the Deputy Superintendent of Police,
Samayanallur Sub-Division,
Madurai District.
6. The Inspector of Police,
Nagamalai Pudhukottai Police Station,
Madurai District.
7. Muthu
8. Thirunganam
9. Velusamy
10. Udayakumar

... Respondents

PRAYER:- Petition filed under Article 226 of the Constitution of India seeking a **Writ of Mandamus**, to direct the respondent Nos.1 to 5 to take appropriate action against the Respondent Nos.7 to 10 for the illegal arrest and custody of the petitioners aged mother



by name Ramjan Beevi wife of Azath and his fathers elder brothers wife by name Ismail Beevi Wife of Anifa by considering his representation, dated 23.10.2018 within the time stipulated by this Court.

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For Petitioner : Mr.I. Sabeer Mohamed

For Respondents-1 to 6 : Mr.R. Anandharaj
Additional Public Prosecutor

For Respondent-7 : Mrs. S. Prabha

For Respondents-8 to 10 : No Appearance

ORDER

This writ petition has been filed to direct the respondent Nos.1 to 5 to take appropriate action against the Respondent Nos.7 to 10 for the illegal arrest and custody of the petitioners aged mother by name Ramjan Beevi wife of Azath and his fathers elder brothers wife by name Ismail Beevi Wife of Anifa by considering his representation, dated 23.10.2018 within the time stipulated by this Court.

2. The learned Counsel appearing for the petitioner submitted that based on a complaint lodged by one Sahul Maiden the entire family members have been taken by the respondents-7 to 10 for illegal custody and also a false case has been registered as against the family members in Crime No.542 of 2018 for the offences under sections 147, 294(b), 324, 506(ii) of I.P.C r/w 4 of TNPHW Act, 2002. In fact, his aged mother and maternal aunt were taken illegal custody by the respondents-7 to 10. Immediately, the petitioner has approached this Court and also filed H.C.P.(MD) No.1515 of 2018 for illegal custody of his mother and maternal aunt. Only after filing the HCP before this Court, the respondents-7 to 10 released his mother and maternal aunt. They have also tortured them without even considering their age and illegally detained them for more than six hours. In this regard, the petitioner had lodged so many representations for taking as against the respondents-7 to 10 but the respondents-1 to 5 did not take any action. Hence, the petitioner is before this Court.

3. The learned Additional Public Prosecutor appearing for the respondent police filed counter on behalf of sixth respondent and submitted that based on a complaint lodged by Sahul Maindeen a case has been registered in Crime No.542 of 2018 for the offences under Sections 147, 294(b), 448, 324, 506(ii) of I.P.C r/w Section 4 of TNPHW Act, 2002 in which there are four accused. He



further submitted that there is no absolute political influence by the complainant in Crime No.542 of 2018. There is dispute in respect of construction, based on a complaint lodged by the defacto complainant a case has been registered in Crime No.542 of 2018 against the petitioner's family members. Since all the accused were absconded, the mother and the maternal aunt of the petitioner herein they also all did not cooperate with enquiry. Therefore, with the help of Women police they were brought to the police station and they were provided adequate basic needs and thereafter they co-operated for enquiry and they were let disposed of. He further submitted that they never illegally detained. Recording the said submission, already the Division Bench also closed the HCP No.1515 of 2018 by order dated 23.10.2018.

The learned counsel appearing for the seventh respondent would submit that based on a complaint lodged by Sahul Maideen a case has been registered in Crime No.544 of 2018 as against the family members of the petitioner. In fact, based on the said complaint the family members of the petitioner were absconded and as such mother and aunt of the petitioner have brought into the police station and they were enquired and immediately let of and the aforesaid statement was also submitted before this Court in H.C.P. (MD) No.1515 of 2018 the same was recorded and closed by order of this Court, dated 23.10.2018. He further submitted only to escape from the clutches of law, the present petition has been filed.

4. Heard Mr. I.Sabeer Mohamed, learned Counsel appearing for the petitioner and Mr.R. Anandharaj, learned Additional Public Prosecutor appearing for the respondents-1 to 6 and Mrs. S. Prabha, learned Counsel appearing for the seventh respondent.

5. The petitioner has submitted a representation to take proper action as against the respondents-7 to 10 for illegal detention of the petitioner's mother and maternal aunt by the respondents-7 to 10. In pursuant to the crime a case has been registered in Crime No.544 of 2018 lodged by one Sahul Maideen. On perusal of records shows that based on a complaint lodged by one Sahul Maideen a case has been registered in Crime No.542 of 2018 for the offences under Sections 147, 294(b), 324, 506(ii) IPC r/w 4 of TNPHW Act, 2002. In this regard, seventh respondent has conducted enquiry and enquired the mother and maternal aunt of the petitioner and brought to the police station since the accused persons were absconded. They were enquired and they were let of immediately. In fact, their statement was recorded in HCP(MD) No. 1515 of 2018 by this Court and closed the same by order dated 23.10.2018.

6. According to the petitioner, Sahul Maideen is a political influenced person and he demanded some 'mamul' from the



petitioner's sister, namely, complainant in Crime No.544 of 2018. In this regard, there was a dispute between the petitioner's family and the first accused family members. Therefore, the seventh respondent has registered a case in Crime No.542 of 2018 as against the petitioner's family members and registered another case in Crime No.544 of 2019 against the Sahul and others. In both the cases, investigation is still pending. Therefore, at this juncture, a representation of the petitioner cannot be considered since investigation is still pending and in progress. The present case has been filed to escape from the clutches of law. Therefore, the writ petition is liable to be dismissed.

7. In view of the above, the Criminal Original Petition is dismissed. If at all any grievance in respect of illegal detention by the respondents- 7 to 10 during the investigation pursuant to the case registered in Crime No.544 of 2018 the petitioner is at liberty to approach the Human Rights Commission, if any violation on the investigation done by the respondents-7 to 10 as against the mother and maternal aunt of the petitioner along with material evidence. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CRL.SIDE)

// True Copy //

Sub Assistant Registrar (CS)

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To

1. The State of Tamil Nadu Rep. by its
The Principal Secretary, Home Department,
Secretariat, Fort Saint George, Chennai.
2. The Director General of Police,
Office of the Director General of Police,
Beach Road, Chennai
3. The Inspector General of Police,
Office of the Inspector General of Police,
South Zone,
New Natham Main Road, Madurai.
4. The Superintendent of Police,
Office of the Superintendent of Police,
Madurai District.



5. The Deputy Superintendent of Police,
Office of the Deputy Superintendent of Police,
Samayanallur Sub-Division,
Madurai District.

6. The Inspector of Police,
Nagamalai Puthukottai Police Station,
Madurai District.

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

+1 CC to M/s.I.SABEER MOHAMED, Advocate (SR-88918[F] dated
24/09/2019)

W.P. (MD) No. 21799 of 2018
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KM/ (22.10.2019) 5P 9C