



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **03.12.2019**

CORAM:

THE HONOURABLE MR.JUSTICE **T.RAJA**

AND

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

H.C.P. (MD)No.1116 of 2019

Iniyaval

: Petitioner

Vs

1.The State rep. by The Superintendent of Police,
O/o.The Superintendent of Police,
Tirunelveli District.

2.The Deputy Superintendent of Police,
O/o.The Deputy Superintendent of Police,
Tenkasi Sub Division,
Tenkasi,
Tirunelveli District.

3.The Inspector of Police,
Puliyarai Police Station,
Tirunelveli District.

4.The Inspector of Police,
Tenkasi Police Station,
Tirunelveli District.

5.Mr.Gokul Krishnan

6.Mr.Adivel

7.Mr.Majeeth

: Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Habeas Corpus, directing the respondents 1 to 4 to produce the petitioner's husband namely H.Abdul Sukoore, son of Haja Mydeen, aged about 31 years before this Honourable Court and set him at liberty forthwith.

For Petitioner

: Mr.S.M.A.Jinnah

For Respondents

: Mr.K.Dinesh Babu

Addl.Public Prosecutor for RR-1 to 4

O R D E R

[Order of the Court was made by **T.RAJA, J.**]

Iniyaval, W/o.H.Abdul Sukoore, has brought this Habeas Corpus Petition praying to direct the respondents 1 to 4 to produce



her husband Abdul Sukoor, S/o. Haja Mydeen before this Court and set him at liberty forthwith.

2. Learned counsel appearing for the petitioner submitted that the petitioner fell in love with the detenu. Her father was working as Sub-Inspector of Police with the fourth respondent Police Station and for some reasons, the petitioner's father was suspended and the said case is pending for trial on the file of the Additional Principal District and Sessions Judge, Tenkasi in S.C.No.347/2018. Pursuant to the registration of the case, the petitioner's husband and her father appeared before the trial court. In view of the fact that petitioner's husband is also appearing in support of her father, he has been implicated in a case registered in Cr.No.200/2019 on the file of the Thuckalay Police Station for alleged offences under Sections 153A, 295 of I.P.C @ 120(b), 153A, 295 of I.P.C and Section 125 of Representation of People Act. When the matter stood as above, the petitioner's mother-in-law was taken to an Ayurvedic hospital at Pathanapuram, Kerala by hiring a rental taxi and the same was driven by one Kutti. When they were returning from the hospital on 16.10.2019 at about 7.00 p.m, they stopped the car and took tea near Puliyarai Check Post. At that time, the respondents 5 to 7 took the petitioner's husband, mother-in-law, Kutti and one Ansar, who is a relative of petitioner's husband to the third respondent Police Station and thereafter, the petitioner's mother-in-law was taken into the fourth respondent Police Station by the Police Wing. After conversation, the petitioner's mother-in-law was detained by the respondents 3 to 7 and thereafter, she was also set free on 17.10.2019 at 9.00 p.m. Only thereafter, they have given a written complaint before the respondents 3 and 4 in person. After receiving the complaint neither a CSR was issued nor taken any steps to set free the petitioner's husband. Immediately thereafter, the petitioner sent an E-mail complaint to the District Collector, Tirunelveli and also one more complaint to the Superintendent of Police, Tirunelveli District/first respondent herein. But till date, the respondents 2 to 7 and other Police Officials neither produced the petitioner's husband before any Judicial Magistrate nor released him. The suspicious activities of the respondents 2 to 7 raised an apprehension that the life of the petitioner's husband is in danger. Hence, she has been advised to go to this Court. While she is having a reasonable apprehension that her husband has been in illegal detention of the respondents 2 to 7, unless steps are taken to secure him, it will cause irreparable to the petitioner.

3.While pendency of this petition, the petitioner has also moved an impleading application namely CrI.M.P.(MD).No.9794/2019 to implead Mr.Suresh Kumar, the Inspector of Police, Senkottai Police Station, Tirunelveli District as proposed respondent No.8 in pending Habeas Corpus Petition on the premise that Mr.Suresh Kumar who was questioning the petitioner's husband has exceeded his limit in assaulting the detenu very bad, as a result, his right leg has been severely injured grievously. Consequently, he has to undergo



surgery, failing which, his right leg will be amputated. Therefore, it is a fit case for impleading Mr.Suresh Kumar, the Inspector of Police, Senkottai Police Station, Tirunelveli District as proposed respondent No.8.

4.Opposing the above prayer, Mr.K.Dinesh Babu, learned Additional Public Prosecutor, appearing for the respondents 1 to 4, placing before us, the remand order and also the order granting bail in favour of the detenu, submitted that it is not open to the petitioner to move this impleading petition to implead Mr.Suresh Kumar, the Inspector of Police, Senkottai Police Station, Tirunelveli District as one of the respondents. When the detenu was produced before the Judicial Magistrate, Tenkasi, he himself has spoken to the learned Judicial Magistrate that he sustained injury in his right leg, because of the twisting of legs, two days back, when he played Kabadi. It is also relevant to extract said statement given by the detenu before the learned Judicial Magistrate, Tenkasi:

"When I asked him about the injury, he stated his right leg got twisted two days back, when he played kabadi."

5.When the detenu was produced before the Judicial Magistrate, Tenkasi, he was questioned rightly by the Judicial Magistrate. For that, he stated that, while playing kabadi two days ago, his right leg got twisted. It shows that the detenu was given an opportunity to explain how the injury in his right leg has occurred and the same has also been recorded by the learned Judicial Magistrate, Tenkasi.

6.In view of the above statement given by the detenu himself before the learned Judicial Magistrate, Tenkasi and the same has been recorded by the learned Judicial Magistrate, Tenkasi, we are unable to espouse the statement given by the learned counsel that due to extra-judicial harassment caused to the detenu, he suffered injury in his right leg. Further, the learned Judicial Magistrate, Tenkasi has recorded the statement given by the detenu that his right leg got twisted two days back when he played kabadi. Whereas, today, the petitioner has come to implead Mr.Suresh Kumar, the Inspector of Police, Senkottai Police Station, Tirunelveli District as one of the necessary parties on the premise that the said Mr.Suresh Kumar, who is to be impleaded as 5th respondent, has assaulted her husband/the detenu indiscriminately with iron rod causing blood clots on his foot without blood circulation. Now, the Doctor has also advised him to undergo surgery, failing which, his right leg would be amputated.

7.This Court finds it difficult to see the inconsistent stand taken by the petitioner and her husband/detenu as mentioned above. While he was given an opportunity to explain the learned Judicial Magistrate, Tenkasi, at the time of remand, he had failed



to speak. On the other hand, he himself admitted that his right leg twisted two days back, when he played kabadi. Therefore, this Court is unable to conduct any roving enquiry in the matter.

8. In view of the above, this Habeas Corpus Petition fails. Consequently, the impleading petition filed in Crl.M.P.(MD). No.9744/2019 also fails. Accordingly, this petition is dismissed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

To

1. The Superintendent of Police,
O/o. The Superintendent of Police,
Tirunelveli District.
 2. The Deputy Superintendent of Police,
O/o. The Deputy Superintendent of Police,
Tenkasi Sub Division,
Tenkasi,
Tirunelveli District.
 3. The Inspector of Police,
Puliyarai Police Station,
Tirunelveli District.
 4. The Inspector of Police,
Tenkasi Police Station,
Tirunelveli District.
 5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
- +1 CC to M/s.S.M.A.JINNAH, Advocate (SR-103624[F] dated 05/12/2019)

VS

Order made in
H.C.P. (MD)No.1116 of 2019
Dated:- 03.12.2019

KK/SAR/20.12.2019/4P-7C/