



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.12.2019

CORAM:

THE HONOURABLE MR. JUSTICE T. RAJA

AND

THE HONOURABLE MR. JUSTICE B. PUGALENDHI

H.C.P. (MD) No. 1290 of 2019

V. Kodimuthu : Petitioner
Vs.

1. The Superintendent of Police,
Thoothukudi District,
Thoothukudi.
2. The Inspector of Police,
Thermal Nagar Police Station,
Thoothukudi District. : Respondents

PRAYER: Petition is filed under Article 226 of the Constitution of India praying for the issue of a Writ of Habeas Corpus, directing the respondents to produce the detenu Vijayakumar, S/o. Kodimuthu, aged about 31 years from their illegal custody and produce him before this Hon'ble Court and set him at liberty.

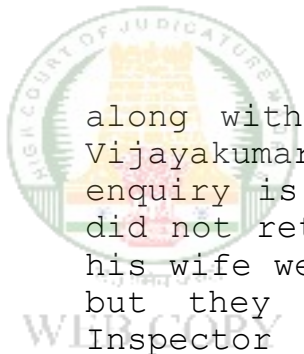
For Petitioner : Mr. T. Lenin Kumar
For Respondents : Mr. K. Dinesh Babu
Additional Public Prosecutor

ORDER

(Order of the Court was made by T. RAJA., J)

Mr. V. Kodimuthu S/o. Vaigunda Nadar has approached this Court with this Habeas Corpus Petition, for issuance of a Writ of Habeas Corpus or Writ of Direction, directing the Superintendent of Police, Thoothukudi District, Thoothukudi and the Inspector of Police, Thermal Nagar Police Station, Thoothukudi District, the respondents 1 and 2 herein, to secure the detenu Vijayakumar, S/o. Kodimuthu, aged about 31 years from their illegal custody and produce him before this Hon'ble Court and set him at liberty.

2. Learned counsel appearing for the petitioner pleaded that the petitioner's son Mr. Vijayakumar, who is the detenu, is a practising Advocate in the Tirunelveli Bar. While so, on 03.12.2019 at about 1.00 p.m., the Inspector of Police, Thermal Nagar Police Station

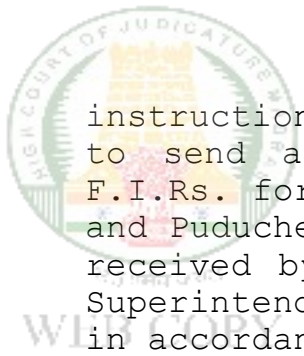


along with policemen came to his house and dragged away his son Vijayakumar, who was taking his lunch, with them on the premise that enquiry is contemplated on a complaint. Since the petitioner's son did not return home even after lapse of 7 hours, the petitioner and his wife went to the second respondent police and made some enquiry, but they evaded to give proper reply, more particularly, the Inspector of Police, Thermal Nagar Police Station, the second respondent herein, deliberately failed to disclose the whereabouts of his son. Therefore, the petitioner and his relatives once again went to the second respondent Inspector of Police and he did not tell anything about his son. Hence, they went to the Deputy Superintendent of Police, Tuticorin Town to secure his son from the illegal custody of the second respondent. But every steps taken to trace his son ended in vain. Therefore, they have been advised to give a representation to the Superintendent of Police, the first respondent herein. In spite of receipt of the representation dated 03.12.2019, even the first respondent also failed to give any response. Therefore, they have been advised to approach this Court for issuance of a Writ of Habeas Corpus Petition, directing the respondents 1 and 2 to produce the detenu before this Court and set him at liberty.

3. Since the learned counsel appearing for the petitioner invited our notice to the fact that the detenu is a practising lawyer in Tirunelveli Bar, we directed the learned Additional Public Prosecutor to take instruction today itself and the matter was passed over. After lunch, when the matter was taken up at 2.15 p.m., Mr. K. Dinesh Babu, learned Additional Public Prosecutor appearing for the respondents surprised us by saying that the so-called detenu Vijayakumar S/o. Kodimuthu, till date suffers two F.I.Rs. The first F.I.R. was registered on 15.09.2019 on the file of the Muthiahpuram Police Station for the commission of offence under Section 392 I.P.C. @ 392, 109 and 414 I.P.C. A reading of the F.I.R. really bothers us, therefore, we went into the second F.I.R. registered on 21.10.2019 by the same Muthiahpuram Police Station for a similar offence. That shows that the petitioner's son who claims to be a counsel practising in Tirunelveli Bar is allegedly involved in two criminal cases relating to Sections 392 and 379 I.P.C. The learned Additional Public Prosecutor has again taken us to second surprise that he has been remanded to judicial custody by the Principal District Munsif, Thoothukudi, who is in charge of Judicial Magistrate No. II, Thoothukudi.

5. A perusal of both the F.I.Rs. shows that the detenu has been booked for two serious criminal charges, one for robbery under Section 392 I.P.C. and another for theft under Section 379 I.P.C. We are at a loss to understand as to how the detenu, who claims to be a practising advocate, can give room for registration of two F.I.Rs. with such serious charges. Therefore, we find it difficult to entertain this Habeas Corpus Petition as it is bereft of any merits.

<https://hccases.ezodis.in/cases/> The learned Additional Public Prosecutor is directed to give suitable



instruction in writing to the Superintendent of Police, Thoothukudi to send a suitable complaint, enclosing the copy of these two F.I.Rs. for further action, if any, to the Bar Council of Tamil Nadu and Puducherry within two weeks from today. If any such complaint is received by the Bar Council of Tamil Nadu and Puducherry from the Superintendent of Police, Thoothukudi, action shall be taken thereon in accordance with law forthwith.

5. In view of the above, the Habeas Corpus Petition is liable to be dismissed and the same is accordingly dismissed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar (CS)

sj

To

1. The Superintendent of Police,
Thoothukudi District,
Thoothukudi.
2. The Inspector of Police,
Thermal Nagar Police Station,
Thoothukudi District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s. T. LENIN KUMAR, Advocate (SR-103666[F] dated 05/12/2019

Order made in
H.C.P. (MD) No. 1290 of 2019
Dated: 05.12.2019

DB (CO)
TR (16.12.2019) 3P 5C