



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.12.2019

CORAM:

THE HONOURABLE **MR. JUSTICE A.D. JAGADISH CHANDIRA**

Cr1.O.P.(MD)No.18458 of 2019

M.Shanmugarajalingam

: Petitioner

Vs.

1.The Superintendent of Police,
Virudhunagar District,
Virudhunagar.

2.The Inspector of Police,
Sivakasi East Police Station,
Sivakasi, Virudhunagar District.

3.Jothi

: Respondents

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C., to direct the respondents to provide adequate police protection for the petitioner and his family members for leading a peaceful life based on his representation dated 02.12.2019 made through the official website of the respondents.

For Petitioner

: Mr.S.P.Naveen Kumar

For R1 & R2

: Mr.S.Chandrasekar,
Additional Public Prosecutor

For R3

: Mr.J.Jayakumaran
(Vakalath not filed)

ORDER

This Criminal Original Petition has been filed to direct the official respondents to provide adequate Police protection for the petitioner and his family members for leading a peaceful life based on his representation dated 02.12.2019 made through the official website of the respondents.

2.The contention of the counsel for the petitioner is that the petitioner has completed degree in Bachelor of Computer Applications course in Kaleeswari College. He belongs to schedule caste community and he fell in love with one J.Anusiya, aged about 20 years, residing in the same locality who belonged to a dominant community. Their relationship was opposed by the parents of the



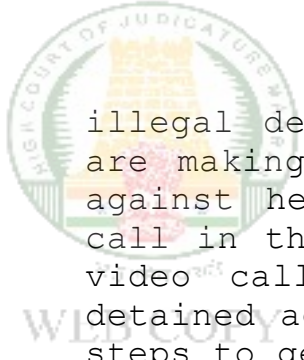
said J.Anusiya and thereby, the parents of the said J.Anusiya have harassed the petitioner. However, they have eloped and they got married at Murugan Temple situated at Thiruthangal. On the next day, the petitioner along with his wife had visited his uncle to disclose the marriage and his uncle had produced them before the police officials attached to Peraiyur Police Station. Despite the petitioner informing the police officials that both of them are majors and are legally eligible to get married, the police officials attached to the Peraiyur Police Station without heeding their words, called the parents of the J.Anusiya to the Police Station and they got signature from the said J.Anusiya in a blank white sheet and handed over the custody of the said J.Anusiya to her parents and sent her along with her parents and thereafter, on 11.12.2019, J.Anusiya came back to the petitioner's house and both of them again surrendered before the Virudhunagar West Police Station. The police officials attached to the Virudhunagar West Police Station, conducted an enquiry and they also called the family members of the said J.Anusiya and once again the said J.Anusiya was handed over to her parents.

3.Further it is submitted that since both of them belong to different communities, the petitioner apprehended that his wife J.Anusiya would be killed in the name of "Honour Killing". Therefore, the petitioner sent a representation to the first and second respondents to give appropriate security to his wife and also give police protection to him and his family members. Since no action was taken, the petitioner filed the present petition seeking police protection.

4.When the matter was listed on 10.12.2019, one Mr.J.Jayakumaran, learned counsel appeared before this Court on behalf of the third respondent, even without any notice being sent to the third respondent. He submitted that the girl is staying with her parents on her own volition and there was no marriage at all.

5.At the same time, the second respondent also produced the file containing letter stated to be written by said J.Anusiya, wherein it was stated that since she was reprimanded by her parents for chatting in phone and watching TV for long hours, she left home without informing anybody to the petitioner's house and later coming to know that she was being searched by the police, she was produced by the uncle and mother of the petitioner before Thiruthangal Police Station and that she is going back with her mother on her own accord.

6.The learned counsel for the petitioner submitted that the girl J.Anusiya had made a video call to the mobile phone of the
 https://hcsr.judges.org.in/hcsr/hcsr/ wherein she had stated that she has been kept under



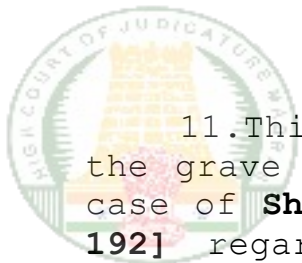
illegal detention against her will by her parents and that they are making arrangements to get her married to some other person against her wishes and he displayed the recording of the video call in the open Court with the permission of the Court. In the video call, the said J.Anusiya had stated that she had been detained against her wish by her parents and that they are taking steps to get her married to some one else.

7.This Court, entertaining suspicion with regard to the letter produced by the second respondent, directed the second respondent to produce the victim girl before this Court today.

8.The matter was taken up for hearing today at 2.15 p.m at the chamber. This Court enquired the said the victim J.Anusiya. She informed that she got married to the petitioner on 06.11.2019 at Murugan Temple situated at Thiruthangal out of her own will. Further, fearing disturbance from her parents, she along with the petitioner and his uncle had surrendered before the Peraiyur Police Station on 07.11.2019 and had sought for protection. Whereas the Peraiyur Police had called her parents and after enquiry, they had compelled her to go along with her parents. Thereafter, once again, she had come to the petitioner's house on 11.12.2019 and once again, they had appeared before the Virudhunagar West Police Station and the police officials attached to the Virudhunagar West Police Station had also enquired and once again, her family members had taken her from the police station against her will. She also informed that she had completed her Diploma in Electrical Engineering and that her parents are holding her certificates and her computer. She expressed her desire and willingness to go along with the petitioner, whom she had married. The victim J.Anusiya also informed this Court that while she was enquired in the police station, she was compelled by the officials belonging to her community to leave the boy and go along with her parents.

9.This Court also entertains doubt with the documents that have been produced by the Thiruthangal Police. Further, the petitioner had appeared along with the victim before the Peraiyur Police Station on 07.11.2019. The Police officials attached to the Peraiyur Police Station without conducting proper enquiry and without understanding the consequences, had handed over the custody of the girl to the parents. Only thereafter, on 08.11.2019, a complaint has been obtained from the mother of the said J.Anusiya.

10.This Court expresses dissatisfaction in the manner in which the matter has been dealt with by the concerned police officials belonging to the Virudhunagar and Madurai District.



11. This Court is constrained to remind the respondent police the grave concern expressed by the Hon'ble Supreme Court in the case of **Shakti Vahini vs. Union of India and others [(2018) 7 SCC 192]** regarding right to marry person of one's choice, honour killing and other forms of honour crimes inflicted on young couples by conducting Khap panchayat and the duty of Courts and all authorities concerned to protect young couples families from such illegalities.

"55.2 Remedial Measures:-

55.2.1 Despite the preventive measures taken by the State Police, if it comes to the notice of the local police that the Khap Panchayat has taken place and it has passed any diktat to take action against a couple/family of an inter-caste or inter-religious marriage (or any other marriage which does not meet their acceptance), the jurisdictional police official shall cause to immediately lodge an F.I.R. under the appropriate provisions of the Indian Penal Code including Sections 141, 143, 503 read with 506 of IPC.

55.2.2 Upon registration of F.I.R., intimation shall be simultaneously given to the Superintendent of Police/ Deputy Superintendent of Police who, in turn, shall ensure that effective investigation of the crime is done and taken to its logical end with promptitude.

55.2.3 Additionally, immediate steps should be taken to provide security to the couple/family and, if necessary, to remove them to a safe house within the same district or elsewhere keeping in mind their safety and threat perception. The State Government may consider of establishing a safe house at each District Headquarter for that purpose. Such safe houses can cater to accommodate

(i) young bachelor-bachelorette couples whose relationship is being opposed by their families /local community/Khaps and

(ii) young married couples (of an inter-caste or inter-religious or any other marriage being opposed by their families/local community/Khaps).

Such safe houses may be placed under the supervision of the jurisdictional District Magistrate and Superintendent of Police.

55.2.4. The District Magistrate/ Superintendent of Police must deal with the complaint regarding threat administered to such couple/family with utmost sensitivity. It should be first ascertained whether the



bachelor-bachelorette are capable adults. Thereafter, if necessary, they may be provided logistical support for solemnising their marriage and/or for being duly registered under police protection, if they so desire. After the marriage, if the couple so desire, they can be provided accommodation on payment of nominal charges in the safe house initially for a period of one month to be extended on monthly basis but not exceeding one year in aggregate, depending on their threat assessment on case to case basis.

55.2.5 The initial inquiry regarding the complaint received from the couple (bachelor-bachelorette or a young married couple) or upon receiving information from an independent source that the relationship/marriage of such couple is opposed by their family members/local community/Khaphs shall be entrusted by the District Magistrate/ Superintendent of Police to an officer of the rank of Additional Superintendent of Police. He shall conduct a preliminary inquiry and ascertain the authenticity, nature and gravity of threat perception. On being satisfied as to the authenticity of such threats, he shall immediately submit a report to the Superintendent of Police in not later than one week.

55.2.6 The District Superintendent of Police, upon receipt of such report, shall direct the Deputy Superintendent of Police incharge of the concerned subdivision to cause to register an F.I.R. against the persons threatening the couple(s) and, if necessary, invoke Section 151 of Cr.P.C. Additionally, the Deputy Superintendent of Police shall personally supervise the progress of investigation and ensure that the same is completed and taken to its logical end with promptitude. In the course of investigation, the concerned persons shall be booked without any exception including the members who have participated in the assembly. If the involvement of the members of Khap Panchayat comes to the fore, they shall also be charged for the offence of conspiracy or abetment, as the case may be.

55.3 Punitive Measures:-

55.3.1 Any failure by either the police or district officer/officials to comply with the aforesaid directions shall be considered as an act of deliberate negligence and/or misconduct for which departmental action must be taken under the service rules. The departmental action shall be initiated and taken to its logical end, preferably not exceeding six months, by the authority of the first instance.



55.3.2 In terms of the ruling of this Court in Arumugam Servai (supra), the States are directed to take disciplinary action against the concerned officials if it is found that:

(i) such official(s) did not prevent the incident, despite having prior knowledge of it, or

(ii) where the incident had already occurred, such official(s) did not promptly apprehend and institute criminal proceedings against the culprits.

55.3.3. The State Governments shall create Special Cells in every District comprising of the Superintendent of Police, the District Social Welfare Officer and District Adi-Dravidar Welfare Officer to receive petitions/complaints of harassment of and threat to couples of inter-caste marriage.

55.3.4. These Special Cells shall create a 24 hour helpline to receive and register such complaints and to provide necessary assistance/advice and protection to the couple.

12. It is made clear that the petitioner and the said J. Anusiya are majors and capable adults who have taken decision on their own choice. They belong to different communities. A duty is cast on the police authorities to ensure the safety of the couples and give protection. The said J. Anusiya has made serious allegations against certain police officials belonging to Peraiyur and Thiruthangal Police Station. The Deputy Inspector General, Madurai Range is directed to conduct enquiry and take appropriate action against the erring officials.

13. With the above observations and directions, this Criminal Original Petition is closed.

Sd/-

Assistant Registrar(CO)

// True Copy //

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Sub Assistant Registrar(CS)

gns/skn
To

1. The Superintendent of Police,
Virudhunagar District, Virudhunagar.



2.The Inspector of Police,
Sivakasi East Police Station,
Sivakasi, Virudhunagar District.

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

copy to
The Deputy Inspector General,
Madurai Range.

+1 CC to M/s.S.P.NAVEEN KUMAR, Advocate (SR-104913[F] dated
13/12/2019)

+1 CC to M/s.J.JEYAKUMARAN, Advocate (SR-104955[F] dated
13/12/2019)

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11.12.2019

ss(CO)
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