

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 04.11.2020

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MRS. JUSTICE R.HEMALATHA

HCP.No.2019/2020

S.Eswaramoorthy

..Petitioner

Versus

1. The Commissioner of Police
The Commissioner of Office Building,
EVK Sampath Road,
Vepery, Chennai 600 007.

2. The Inspector of Police
M4, Senkundram Police Station
Chennai 52.

..Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Habeas Corpus directing the 2nd respondent to produce petitioner's wife named Gouri before this Court and to set her at liberty.

For Petitioner : Ms.P.Uma

For RR 1 & 2 : Mr.R.Prathap Kumar
Additional Public Prosecutor

ORDER

[Order of the Court was made by M.SATHYANARAYANAN]

- (1)The petitioner is the husband of the detainee Gouri and from the materials placed, it appears that on account of some matrimonial discard, the detainee left the company of her husband / petitioner herein and stayed with her mother.
- (2)The learned counsel for the petitioner would submit that on receipt of the information that his wife / detainee herein, is not with her mother, went to the house of his mother-in-law on 07.10.2020 and having found that his wife is not available and that no proper or sufficient information has been provided as to her whereabouts, had lodged a complaint on the file of the 2nd respondent, who upon receipt of the same, had registered a case in Crime No.3913 of 2020 for ''woman missing''. The

learned counsel would further submit that alleging inaction on the part of the 2nd respondent to trace and restore the custody of the petitioner's wife - detainee herein to him, came forward to file the present Habeas Corpus Petition.

- (3) Per contra, Mr.R.Prathap Kumar, learned Additional Public Prosecutor accepting notice on behalf of the respondents would submit that the investigation was caused in respect of the above said case and the statements of the mother, who has also lodged a complaint as well as the detainee, were recorded and as per the statement of the detainee, it appears to be case of matrimonial discard and as of now, the detainee is living with her mother.
- (4) This Court has considered the rival submissions and also perused the materials placed before it.
- (5) In the light of the above facts and circumstances, this Court is of the considered view that it cannot be said that the detainee is under the illegal custody of anybody and the remedy open to the petitioner, if any, is to avail the Common Law remedy before the competent Forum.
- (6) The Habeas Corpus Petition stands disposed of accordingly.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Commissioner of Police
The Commissioner of Police Office
Building EVK Sampath Road,
Vepery, Chennai 600 007.

2. The Inspector of Police
M4, Senkundram Police Station
Chennai 52.

3. The Public Prosecutor
High Court, Madras.

HCP.No.2019/2020

SS(CO)
RV(01/12/2020)