

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.01.2020

CORAM

THE HONOURABLE MR. JUSTICE R. SUBBIAH
and
THE HONOURABLE MR. JUSTICE G.K. ILANTHIRAIYAN

Habeas Corpus Petition No. 2648 of 2019

Damodaran

.. Petitioner

Versus

The Inspector of Police
HUDCO Police Station
Krishnagiri District

.. Respondent

Habeas Corpus Petition filed under Article 226 of The Constitution of India praying to direct the respondent to produce the petitioner's wife viz., Lalitha, aged about 24 years, who is now missing from 22.07.2019 before this Court and set her at liberty.

For Petitioner : Mr. N. Baaskaran
For Respondent : Mr. R. Prathap Kumar
Additional Public Prosecutor

ORDER

(Order of the Court was made by R. Subbiah, J)

The petitioner is the husband of the detenu by name Lalitha. He has come forward with this Habeas Corpus Petition complaining that his wife is missing since 22.07.2019 and inspite of a complaint given to the respondent, no action is forthcoming to secure her.

2. It is stated in the affidavit filed in support of the Habeas Corpus Petition that the petitioner married the detenu Lalitha and due to the wedlock, they were blessed with two children namely Keerthan, aged 6 year and Poorvika, aged 4 year. According to the petitioner, there were some family disputes between him and the detenu, due to which the detenu left the house on 22.07.2019 and her whereabouts are not known. Inspite of his best efforts to trace his wife, he could not succeed and therefore, on 23.07.2019, he has given a complaint to the respondent police.

3. Earlier, when the Habeas Corpus Petition was taken up for hearing on 24.01.2020, the respondent police produced the detenu Mrs. Lalitha. On that day, the petitioner and the minor children were also present. On enquiry, the detenu informed this Court that she never married the petitioner herein and that she married one Vedarathinam on 25.08.2019. She also disowned the parentage of the two minor children produced before this Court.

4. On the other hand, the petitioner, who was present in the Court along with the minor children submitted that he married the detenu and out of their wedlock, the two minor children were born and therefore the statement of the detenu is false.

5. Even though the detenu was produced before this Court, as prayed for by the petitioner in the Habeas Corpus Petition, in the light of such statement made by the detenu, disowning her marriage with the petitioner as also the parentage of the two minor children, we have directed the Superintendent of Police, Krishnagiri to conduct an enquiry and to submit a report to this Court.

6. Accordingly, the Superintendent of Police, by his memo dated 25.01.2020, directed the Deputy Superintendent of Police, Hosur to cause an enquiry with respect to the marital status of the detenu, whether there was any marriage taken place between the petitioner and the detenu, whether out of such wedlock two children have been born, the place of residence of the detenu etc., On the basis of such direction of the Superintendent of Police, the Deputy Inspector of Police has caused an enquiry and submitted a report to the Superintendent of Police, based on the same, the Superintendent of Police submitted a report to this Court on 30.01.2020. Along with the report, the Superintendent of Police has enclosed the documents such as (i) the marriage invitation card (ii) the marriage photograph taken at the time of wedding of the petitioner and the detenu (iii) a certificate dated 28.01.2020 issued by the Marriage Hall owner where the marriage between the petitioner and the detenu was solemnised (iv) the medical examination report obtained from Dr. Parimala Devi, Senior Assistant Surgeon, Hosur certifying inter alia that the two children were born to the detenu in the Government Primary Health Centre, Peerkankaranai (v) statement obtained from the grand father of the detenu (vi) statement obtained from one Venkatasamy, a neighbour of the detenu (vii) statement obtained from the house owner of the house where the petitioner and the detenu were residing and (viii) the residential certificate issued by the Tahsildar, Hosur certifying that the petitioner and the detenu are residing in Alasanatham Village, Hosur Firka and Taluk, Krishnagiri District. These documents clinchingly prove that the statement made by the detenu is untrue. The detenu had the audacity and was embolden to make such a statement before this Court, knowing it to be false. The statement made by the detenu as though she never married the petitioner and that the two children were not born to her is too big a pill to be swallowed by her. Such a statement made by the detenu, in our opinion, is a deliberate attempt on her part to mislead the process of this Court.

7. Today, the detenu appeared before us and when she was confronted with the report filed by the Superintendent of Police with respect to her marital status and the statement obtained from her grand father as also the neighbour, she sought an apology before this Court for having made a false statement. The detenu proceeded to submit that due to

matrimonial dispute between her and the petitioner, she was in a confused state of mind which led to making a false statement before this Court.

8. We are not in a position to accept such apology from the detenu. By reason of such statement made by the detenu, we were constrained to issue a direction to the Superintendent of Police to cause an enquiry and when once an enquiry report has been obtained, the detenu retracted from her statement and submit that she was constrained to make a statement, knowing it to be false. Such a statement made by the detenu, in our opinion, is not appreciable. The detenu has wasted the precious time of this Court in adjudicating this Petition by issuing a direction to the Superintendent of Police to cause an enquiry with respect to her marital status, based on her misrepresentation. For having made such a statement, the detenu is liable to be prosecuted. However, taking note of the over all facts and circumstances of the case, we are taking a lenient view without proceeding to prosecute the detenu.

9. Before parting with this case, we place on record the strenuous efforts taken by the Superintendent of Police, Krishnagiri and his team in swiftly conducting an enquiry, collection of documentary evidence and submission of a report to this Court with respect to the marital status of the detenu and it deserves praise and appreciation.

10. With the above observation, the Habeas Corpus Petition is closed.

Sd/-

Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

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To

1.The Superintendent of Police,
Krishnagiri.

2.The Inspector of Police
HUDCO Police Station
Krishnagiri District.

Copy To

The Public Prosecutor, High Court, Madras.

+1cc to Mr.M.Sunil Kumar, Advocate, S.R.No.7528

+1cc to Mr.M.Sunil Kumar, Advocate, S.R.No.7528 (16/09/2020)