



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.09.2020

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

and

THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI

H.C.P. (MD) No.721 of 2020

Y.Chitradevi

... Petitioner/wife of the detenu
-vs-

1.The Superintendent of Police,
Thoothukudi District.

2.The Inspector of Police,
Ettaiyapuram Police Station,
Thoothukudi District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of habeas corpus directing the respondents to produce the body and person of the Petitioner husband Yogamani, son of Sankaralingam, aged 45 years, before this Court and set him at liberty.

For Petitioner :Mr.S.Ramasamy

For Respondents :Mr.V.Neelakandan
Additional Public Prosecutor

O R D E R

[Order of the Court was made by K.KALYANASUNDARAM, J.]

This Habeas Corpus Petition has been filed seeking direction to the respondents to produce the Petitioner's husband namely, Yogamani, son of Sankaralingam, aged 45 years, before this Court and set him at liberty.

2.In the affidavit filed in support of the Petition, it has been stated that the Petitioner married the detenu on 11.09.2008 and out of their lawful wedlock, a girl child was born to them. However, subsequently, misunderstanding arose between them and hence the Petitioner filed M.C.No.8 of 2014 under the Domestic Violence Act and the learned Judicial Magistrate No.I, Kovilpatti vide order, dated 31.7.2015, ordered for payment of maintenance to the Petitioner and her daughter at Rs.15,000/-p.m and thereafter, she



filed H.M.O.P.No.26 of 2010 before Sub-Court, Kovilpatti for restitution of conjugal rights and the Petition was ordered by consent of both parties on 18.2.2011.

3.Mr.S.Ramasamy, learned counsel appearing for the Petitioner would argue that even after the orders passed in H.M.O.P and in the maintenance case, there was a compromise talk was going on in between the parties. While-so, the detenu is missing from 9.9.2015 and hence she lodged a complaint to the respondents 1 and 2 on 24.3.2020. Since no action has been taken, the present Habeas Corpus Petition has been filed.

4.Per contra, Mr.V.Neelakandan, learned Additional Public Prosecutor appearing for the respondents 1 and 2 would argue that this is a matrimonial dispute between the husband and wife and that in view of the orders passed by the learned Judicial Magistrate in the Petition filed under the Domestic Violence Act and by the Sub-Court, Kovilpatti in the Petition for restitution of conjugal rights, this Habeas Corpus Petition is not maintainable and prays for dismissal of the Habeas Corpus Petition.

5.It appears that the matrimonial tie between the Petitioner and the detenu snapped long back and they reside apart at least for a decade. It is further seen that the detenu has failed to pay maintenance as ordered by the learned Judicial Magistrate in M.C.No.8 of 2014 and if there is any default in paying the maintenance amount, it is for the Petitioner to approach the concerned Judicial Magistrate for recovery of the maintenance amount, but wrongly approached this Court by filing the present Habeas Corpus Petition, which, in our considered opinion, has no merit.

6.In that view of the matter, the Habeas Corpus Petition stands dismissed.

Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

vsn

Note :

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.



To:

1.The Superintendent of Police,
Thoothukudi District.

2.The Inspector of Police,
Ettaiyapuram Police Station,
Thoothukudi District.

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

ORDER MADE IN

H.C.P. (MD) No.721 of 2020

23.09.2020

MA (CO)

KK(06.10.2020) 3P 4C