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H.C.P.(MD) No.986 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM  
and  
THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI

H.C.P. (MD) No.986 of 2020

Visnupria.P

... Petitioner

-VS-

- 1.The Superintendent of Police  
Theni District, Theni
- 2.The Deputy Superintendent of Police  
Uthamapalayam, Theni District
- 3.The Inspector of Police  
All Women Police Station  
Uthamapalayam, Theni District
- 4.P.Vasagar
- 5.Rajee Vasagar

... 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 or person of the petitioner's husband namely Vivek, aged about 35 years, the detainee herein before this Court and set him at liberty.

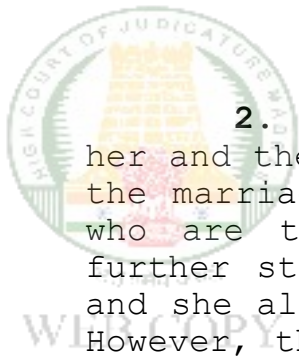
For Petitioner : Mr.K.P.S.Palanivelrajan

For Respondents : Mr.K.Dinesh Babu  
Additional Public Prosecutor  
for R1 to R3

**O R D E R**

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

The petitioner has filed this habeas corpus petition seeking direction to the respondents to produce her husband, namely, Vivek, aged about 35 years, before this Court and set him at liberty.



2. It is the case of the petitioner that the marriage between her and the detenu was solemnized on 20.08.2014 at Odaipatti. After the marriage, they were living in a joint family with her in-laws, who are the respondents 4 and 5 herein. The petitioner would further state that her husband left for America for his employment and she also travelled with him and they were living there happily. However, the same did not last long and hence, she came to India in the year 2015. In the meanwhile, she was pregnant and delivered a female child on 06.10.2015. Thereafter, she had gone to U.S.A. along with the child accompanied by the respondents 4 and 5 herein.

3. It is alleged that the respondents 4 and 5 demanded a sum of Rs.30,00,000/- as dowry and also harassed her, for which, she lodged a complaint with the third respondent on 23.02.2020. The grievance of the petitioner is that though a criminal case was registered, but no action was taken by the respondent Police to secure the detenu and hence, the present habeas corpus petition.

4. Heard Mr.K.P.S.Palanivelrajan, learned counsel appearing for the petitioner and Mr.K.Dinesh Babu, learned Additional Public Prosecutor appearing for the respondents 1 to 3 and carefully perused the materials available on record.

5. It is submitted by the learned Additional Public Prosecutor that based on the complaint lodged by the petitioner, a case in Crime No.7 of 2020 was registered on 14.10.2020 under Sections 498A I.P.C. and Section 3 of Prohibition of Harassment of Women Act by the second respondent Police and when the investigation was going on, the respondents 4 and 5 filed Crl.O.P.(MD) No.13586 of 2020 seeking to quash the proceedings and this Court, vide order dated 30.11.2020, granted interim stay. It is further stated that even according to the petitioner, her husband is in U.S.A. and hence, the third respondent initiated proceedings to issue a lookout notice and papers were submitted on 25.11.2020 and pending with the Superintendent of Police.

6. It is the submission of the learned counsel appearing for the petitioner, the respondents 4 and 5 appeared before the third respondent during investigation and gave an undertaking to produce the detenu before the third respondent for the purpose of investigation. Inasmuch as the respondents 4 and 5 failed to honour their undertaking, the petitioner / wife of the detenu is before this Court.

7. It is the case of the petitioner that the detenu is now in U.S.A. and in view of his absence, there is no progress in the criminal case and the undertaking given by his parents / respondents 4 and 5 was also flouted and not kept up. In our opinion, this cannot be a ground to file the present habeas corpus petition. That apart, the investigation in the criminal case has also been stayed



by this Court vide order dated 30.11.2020 in CrI.O.P.(MD) No.13586 of 2020.

8. In view of the above facts, the habeas corpus petition is dismissed as devoid of merits.

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Sd/-

Assistant Registrar(CRL SIDE)

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Sub Assistant Registrar(CS)

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**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,  
Theni District, Theni.
- 2.The Deputy Superintendent of Police,  
Uthamapalayam, Theni District.
- 3.The Inspector of Police,  
All Women Police Station,  
Uthamapalayam, Theni District.
- 4.The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.

+1 CC to M/s.K.P.S.PALANI VELRAJAN, Advocate ( SR-24172[F] dated 07/12/2020 )

**H.C.P. (MD) No.986 of 2020**

**07.12.2020**

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