



O R D E R

[Order of the Court was made by P.N.PRAKASH, J.]

It is the case of the petitioner that he was in love with Upasana and since her parents did not accept their marriage, he got married to her on 31.08.2017 in the Office of the Sub-Registrar, Kodambakkam. After marriage, they went to their respective parental home and did not disclose about the marriage. Ultimately, the matter became public on 06.02.2021 and Upasana's parents were not permitting her to join him. On the allegation that Upasana is being kept under illegal detention by her parents, this Habeas Corpus Petition has been filed seeking her production.

2 Upasana's father has been shown as the 3rd respondent. On notice, Mr.R.C.Paul Kanagaraj, Advocate, entered appearance for the third respondent and submitted that, Upasana was trapped into a fake marriage by the petitioner and that the marriage has to be annulled in the light of the Division Bench judgment of this Court in S.Balakrishnan Pandiyan vs. The Superintendent of Police and 3 others.

3 In this regard, Mr.R.C.Paul Kanagaraj, submitted that the Deputy Superintendent of Police, Vandalur Sub Division, Chengalpattu District, had conducted an enquiry and found that the petitioner had given fabricated records for registering the marriage.

4 Since foul play was alleged, we directed the Deputy Superintendent of Police, Vandalur Sub Division, to file a Status Report and further directed the parties to be present before this Court.

5 Today, Mr.R.Arul Kumar, Sub Inspector of Police, H-1 Otteri Police Station, is present. The petitioner and Upasana are also present with their respective counsel. The petitioner is residing at No.14/1, LIG, NH-1, Ponmudiyar Street, Maraimalai Nagar - 603 209.

6 The Deputy Superintendent of Police, Vandalur Sub Division, has filed a status report dated 29.07.2021, wherein, he has stated as follows;

"2. I submit that on 11.08.2021 at about 16.00 a.m., the petitioner / defacto complainant namely Selvi.Upasana aged about 22 years D/o.Purushothaman lodged a complaint before me by stating that she was residing at the above address, she is M.B.A. graduate and she is living with her parents at Singaperumal Koil, Chengalpattu District. I further stated that, during her studies in Higher Secondary Class (+1) at St.Joseph Higher Secondary



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School, Maraimalai Nagar, one of the old student of the same school namely L.Balaji, S/o.Lakshminarayanan, petitioner herein who was living at Maraimalai Nagar petitioner was behaving in-appropriate and same was warned by Upasana's father. Later petitioner apologized and seeks for her friendship as amends, and the friendship continued during her collage studies. In the meanwhile, petitioner asked complainant to go to cinema along with friends then she accepted. But petitioner brought complainant to Sub-Register Office, Arumbakkam, Chennai, and When Selvi.Upasama asked for the purpose upon arrival of Sub-register office, at that time, petitioner told her that, we are here to sign as a witness for his friend marriage. Since, the Complainant signed all the places as a witness on the compulsion of petitioner, without knowing the consequences of the situations she was put into.

3. I submit that the presently complainant parents were making arrangement for her marriage, then she told her parents that, what has happened and the event that took placed, she also requested to save her from her past mistakes and secure her future by taking appropriate action by freeing from petitioner and securing photos, cell phone conversation and documents.

4. I submit that on 11.02.2021 with the regard to that complainant registered, with reference C.No.18/SDO/VAN/2021, Dated 11.02.2021 and took up the petition for enquiry, recorded the statement of Complainant and she was stated that, the corroborated with her petition.

5. I submit that during the course of enquiry, on 18.02.2021, I have given requisition letter to the Sub-Register, Arumbakkam, Chennai to verify the trueness of their marriage registration. In this connection on 23.02.2021 concerned Sub Register, Arumbakkam, Chennai was replied that is the Petitioner and Complainant marriage has been registered under the Tamil Nadu Marriage Act on 31.08.2017 vide the Serial No.501/2017 and sent the following documents, whether they submitted at the time of marriage registration.

Certificate of Registration of Marriage vide S.N.501/2017, Dated.31.08.2017,

1. Form-II of Registration of Marriage of Tr.Balaji with

Tmt.Upasana

2. Form-I Memorandum of Marriage
3. Aadhar Xerox copy of Tr.Balaji
4. Birth Certificate of Tr.Balaji
5. Ration Card proof copy of Tr.Balaji
6. Aadhar Xerox copy of Tmt.Upasana



7. Birth Certificate of Tmt.Upasana

8. Copy of Marriage invitation for the marriage of Tr.Balaji and

Tmt.Upasana

6. I submit that during the course of enquiry, I have sent a summon to Tr.Balaji for the enquiry of petitioner against him and same was denied by the petitioner, also did not appeared for enquiry and not responding properly, further respondent police made a phone call, at that time, petitioner was represented that, he will deal the matter before the Honorable Court.

7. I further submit that, In this enquiry, I have summoned the Tr.Solayappan, Saravana Mini Hall, Vadapalai, Chennai, who is the owner of the Saravana Mini Hall, Vadapalani to verify the truthiness of marriage of Complainant and petitioner. Further I have enquired the above said Tr.Solayappan, at Vadapalani on 25.02.2021 and he submitted letter, stating that, he was running a Photo studio in the name of Saravana Photo Studio at No.33, Palani Andavar Koil Street, Vadapalani, Chennai since 1981, As the studio business was non-profitable, he has modified the same as Saravana Mini Hall recently in the year of 2021, also further stated that, the year of 2017 there is no Saravana Mini hall in and around the surrounding area.

8. I further submit that the petitioner produced documents before the Honorable High Court including the marriage invitation and it was mentioned that, the marriage of petitioner and complainant held on 30.08.2017, there is no such mini hall mentioned in the produced marriage invitation document before the Honorable High Court as the proof of their marriage and also at the specified address on the particular day, so the petitioner side produced the marriage invitation is fabricated as the false document and the Honorable High Court has to be taken it document proof as the prime of facie in this regard.

9. I submit that, the petitioner was mentioned in his affidavit that their married was held as a Register married at Sub-Register Office, Arumbakkam, Chennai but petitioner submit his records before the Sub-Register Office, Arumbakkam, Chennai that the marriage was took place one day before on 30.08.2017 and the marriage registration has been held on the next day on 31.08.2017 at Saravana Mini Hall, Vadapalani, Chennai. If the wedding has taken place in such hall, the photo would have been produced before the Honorable High Court, because it did not happen like that, they could not hand it over. Hence the Court will account and consider this.

10. I hereby submitted, the petitioner with an



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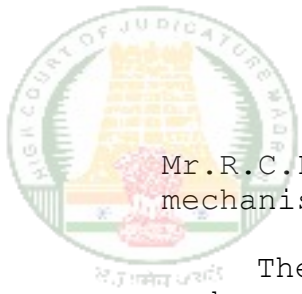
intention created the fabricated documents and created the false record and try to execute his wrongdoing accordance with law. The Honorable High Court may be considered the following aspects in this petitioner of Tr.Balaji's petition that,

1. Registrar sign difference in photos of bride and groom.
2. Seal of register is outside the photo.
3. Upasana's parents name and initials were wrong in the invitation.
4. Place of the marriage is faked and petitioner was not produced any photo as proof of their marriage.
5. He had the marriage certificate as the marriage registration, but he mentioned his affidavit that, the marriage has been held at Register office as Registered Marriage."

7 Thus, from the report of the Deputy Superintendent of Police, it appears that there was no marriage hall by name Saravana Mini Hall, wherein, the petitioner is said to have solemnised his marriage with Upasana on 30.08.2017. It may be relevant to state here that in the affidavit filed in support of the Habeas Corpus Petition, the petitioner has cleverly not mentioned the date of marriage and has instead, merely stated that he got married in the said Registrar's Office at Kodambakkam on 31.08.2017. In support of this contention, he has filed a typed set of papers containing inter alia the certificate bearing Marriage Sl. No.501/2017 said to have been issued by the Marriage Registrar, Sub-Registrar Office, Kodambakkam, under the Tamil Nadu Registration of Marriages Act, 2009.

8 When enquired by us, Upasana stated that the petitioner was his friend and he called her to the Registrar's Office saying that, one of his friend is getting married and wanted her to stand as a witness. Only in those circumstances, she had gone to the Registrar's Office where he had slyly obtained her signature and photograph, with which, he has made it appear as if she got married to him. She further stated that she is not in the illegal custody of any person and that she is living with her parents, on her own accord.

9 Mr.R.C.Paul Kanagaraj submitted that the marriage deserves to be annulled, in view of the status report of the Deputy Superintendent of Police. We are afraid that we cannot do so as these are disputed questions of fact which cannot be determined in a writ proceedings. In the judgment relied on by



Mr.R.C.Paul Kanagaraj, this Court has provided a detailed mechanism for annulling such marriages.

Therefore, we find no merit in this Habeas Corpus Petition and accordingly, the same is dismissed, with liberty to the parties to work out their remedies before the appropriate forum. It is open to Upasana to challenge the marriage certificate and get a declaration that her marriage is null and void in the appropriate Court and for a further declaration that the marriage certificate issued, is also null and void.

Sd/-

Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

sri

To

1.The Deputy Superintendent of Police,
Maraimalai Nagar Range,
Chengalpattu District.

2.The Inspector of Police,
Maraimalai Nagar Police Station,
Chengalpattu District.

3.The Deputy Superintendent of Police,
Guduvanchery.

4.The Public Prosecutor,
High Court, Madras.

+3cc to Mr.R.C.Paul Kanagaraj, Advocate, S.R.No.37186,36791

H.C.P.No.320 of 2021

NRL (CO)
CB(18/08/2021)