

IN THE HIGH COURT OF JUDICIATURE AT MADRAS

DATED : 15.03.2021

CORAM :

THE HONOURABLE MR.JUSTICE T.RAJA
and
THE HONOURABLE MR.JUSTICE G.CHANDRASEKHARAN

H.C.P.No.431 of 2021

K.Syed Sabiyudeen

... Petitioner

versus

1.The Superintendent of Police,
Thiruvarur,
Thiruvarur District.

2.The Inspector of Police,
All Women Police Station,
Thiruvarur,
Thiruvarur District.

3.Y.H.Howa Nachiyar

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, seeking to issue a Writ of Habeas Corpus, directing respondents 1 and 2 police to produce the body or person of the petitioner's wife R.H.Benazeer Parveen, W/o.K.Syed Sabiyudeen, who is aged about 24 years and the petitioner child namely Syed Aseem Fareeth S/o.K.Syed Sabiyudeen who is aged about 1 year, who is under the illegal custody of the third respondent before this Court and set them at liberty.

For Petitioner : Mr.R.Murugabharathi

For Respondents : Mr.R.Prathap Kumar,
Additional Public Prosecutor
for R1 and R2

O R D E R

(Order of this Court was made by T.RAJA,J.)

This Habeas Corpus Petition has been filed by the petitioner seeking a direction to respondents 1 and 2 to produce the body or person of the detainees, namely, petitioner's wife and child, R.H.Benazeer Parveen and Syed Aseem Fareeth, aged about 24 years and 1 year respectively,

who are under the illegal custody of the third respondent, before this Court and set them at liberty.

2.Learned Additional Public Prosecutor appearing for respondents 1 and 2 submitted that since the first detainee, namely, the wife of the petitioner is residing with her parents' house at Dubai along with the second detainee, namely, the child of the petitioner, instead of filing a proper application before the Family Court seeking appropriate remedy, the petitioner has come to this Court by way of filing this petition, which is not maintainable. When it is only a matrimonial dispute, respondents 1 and 2 are no way connected with the same and that there was no illegal detention.

3.We also find merits on the submission made by the learned Additional Public Prosecutor appearing for respondents 1 and 2. Admittedly, the first detainee, namely, the wife of the petitioner is residing with her parents' house at Dubai along with her child, namely, the second detenu. Therefore, we are of the considered view that if there is any family dispute, it has to be set right and redressed in the manner known to law by approaching the Family Court. Since it is only a matrimonial dispute, the petitioner is at liberty to work out his remedy in the manner known to law.

4.As there is no allegation of illegal detention and that there is no merit in the petition filed by the petitioner, the Habeas Corpus Petition is liable to be dismissed as not maintainable. Accordingly, the petition fails and the same is dismissed as not maintainable.

Sd/-
Assistant Registrar (CS-III)

//True copy//

Sub Assistant Registrar

vga

To

1.The Superintendent of Police,
Thiruvarur,
Thiruvarur District.

2.The Inspector of Police,
All Women Police Station,
Thiruvarur,
Thiruvarur District.

3.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.R.Murugabharathi, Advocate SR.No.17056

H.C.P.No.431 of 2021

SKY (CO)
GMV (07/04/2021)