

IN THE HIGH COURT OF JUDICIATURE AT MADRAS

DATED : 08.04.2021

CORAM :

THE HONOURABLE MR.JUSTICE T.RAJA
and
THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

H.C.P.No.490 of 2021

R.Rajadurai ... Petitioner
versus

- 1.The Superintendent of Police,
Ariyalur, Ariyalur District.
- 2.The Inspector of Police,
Irumbulikurichi Police Station,
Sendurai Taluk,
Ariyalur District.

3.Latha

4.Anbumani

5.Suresh Kumar ... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, seeking to issue a Writ of Habeas Corpus, directing the respondents 1 and 2 herein to secure the body of the detinue by name K.Oviya, D/o.Karuppaiyan, W/o.Rajadurai, aged about 20 years from the illegal custody of the respondents 3 to 5 and produce her before this Court for the entrustment of her with the petitioner.

For Petitioner : Mr.N.S.Suganthan
For Respondents : Mrs.P.Kritika Kamal,
Government Advocate (Crl.Side)

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 under Article 226 of the Constitution of India for issuance of writ of Habeas Corpus seeking a direction to respondents 1 and 2 to secure the body of the detinue, by name K.Oviya, D/o.Karuppaiyan, W/o.Rajadurai, aged about 20 years from the illegal custody of respondents 3 to 5 and produce her before this Court.

2.Learned counsel appearing for the petitioner submitted that the petitioner and the detenu had love affairs from the year 2017 and that the petitioner, who belonged to Scheduled Caste community, has completed B.Sc. Chemistry in Raja Serfoji College (Autonomous), Tanjore and that the detenu, who belonged to Most Backward Caste Community, has been perusing her B.A. Tamil in Women's Government College, Veppur. Learned counsel appearing for the petitioner further submitted that the detenu and the petitioner got married on 13.09.2019 in Bramhapureeshwarar Temple, Thirupattur against the wish of the parents and relatives of the detenu. After knowing the objections raised by the detenu's family members, they lived separately. While so, the third respondent, being the mother of the detenu and respondents 4 and 5, being the brothers of the third respondent, ignoring the facts that the marriage had already been solemnized between the detenu and the petitioner and due to which, the detenu became pregnant, contracted the second marriage between the detenu and the fourth respondent, which is un-justifiable. Learned counsel for the petitioner further submitted that since they were not able to go safely to the Sub Registrar to register their marriage, after solemnisation of marriage between them at Bramhapureeshwarar Temple, Thirupattur, there was no proof for marriage. Taking advantage of the non-registration of the marriage, the detenu's family members have forced the detenu to leave the petitioner and finally contracted the second marriage with the fourth respondent illegally. Therefore, the petitioner has been advised to come to this Court.

3.Learned Government Advocate (Crl.Side) appearing for respondents 1 and 2 submitted that there was no proof of marriage between the petitioner and the detenu that goes without saying that there was no marriage between them, whereas, there is a proof of marriage between the detenu and the fourth respondent and that too, the same was properly arranged by the family members of the detenu. To support her submission, she has shown the marriage invitation through her cell phone.

4.A perusal of the marriage invitation shows that the marriage has been solemnized on 10.11.2019 between the detenu and the fourth respondent. Therefore, when there is a proof of marriage between the detenu and the fourth respondent, the only remedy available to the petitioner is to approach the competent civil Court to work out their remedy, if there was a proof of marriage between the petitioner and the detenu that said to have taken place earlier to the subsequent marriage. Without resorting to the said legal remedy, the petitioner has wrongly come to this Court by filing this petition under Article 226 of the Constitution of India for issuance of writ of Habeas Corpus. Hence, this petition is not maintainable.

5.Secondly, learned Government Advocate appearing for respondents 1 and 2 is able to satisfy us by placing on record

the marriage invitation, which goes without saying that the detinue has agreed for the marriage based on the arrangement made by the family members of the detinue and the fourth respondent. It is not the case that the detinue has come to this Court seeking any remedy because she has married the fourth respondent now. Therefore, considering the fact that there was no marriage proof placed by the petitioner, whereas the marriage solemnized between the detinue and the fourth respondent, has been fully supported by the marriage invitation shown to us, we are unable to find any merits in this petition. Accordingly, this petition fails and the same is dismissed.

Sd/-

Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

vga

To

- 1.The Superintendent of Police,
Ariyalur, Ariyalur District.
- 2.The Inspector of Police,
Irumbulikurichi Police Station,
Sendurai Taluk,
Ariyalur District.
- 3.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.N.S.Suganthan, Advocate, S.R.No. 22643

H.C.P.No.490 of 2021

NR(CO)
GN(04/05/2021)