

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.04.2021

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

HCP.No.487 of 2021

V.P.Harish Kumar

... Petitioner

-VS-

1. The State rep. by the Superintendent
of Police, Vellore District,
Vellore-632 009.
2. The Inspector of Police,
Viruthampet Police Station,
Gandhi Nagar, Vellore-632 006.
3. Arivendhan
4. Kalaiselvi
5. Ramadoss

... Respondents

Habeas Corpus Petition filed under Article 226 of the Constitution of India, seeking to issue a Writ of Habeas Corpus, directing the respondents 1 and 2 to produce the body or person of Abinaya, aged about 26 years, the petitioner's wife before this Court and set her at liberty from the illegal custody of the respondents 3 to 5.

For Petitioner : R.Manickavel

For Respondents : Mr.R.Prathap Kumar, APP
1 and 2

ORDER

(Order of the Court was pronounced by T.RAJA, J.)

The Habeas Corpus Petition has been filed seeking a direction to the respondents 1 and 2 to produce the detainee Abinaya, aged about 26 years, the petitioner's wife before this Court and set her at liberty from the illegal custody of the respondents 3 to 5.

2. Learned Counsel for the petitioner submitted that the petitioner is presently working as Sales-Executive in VOGUE Limited, Vellore. While he was studying B.E. Computer Science Engineering in Mamallan Institute of Technology, Sriperumbudur, he was in love with the detinue Abinaya as she was his classmate. As they were in love with each other for more than 3 years, after completing the course, they continued their relationship and thereafter, under the guise of securing employment to Abinaya, the petitioner had taken her to his sister's residence at Ahmedabad for few months and there, both the petitioner and the detinue Abinaya were living together in Gujarat before arriving Chennai. Thereafter, the petitioner got a job as Sales Executive-Head in VOGUE Limited, Vellore whereas the detinue got job in EDR Continuous Information Private Limited as Road Function Data Base Quality Checker.

3. Learned Counsel for the petitioner further submitted that subsequently, the petitioner and the detinue Abinaya decided to marry in the presence of the petitioner's friends Abimanyu, Lokesh and Harikumar and accordingly, their marriage was performed on 29.10.2020 at Mariamman Temple nearby Kalinjur Lake, Katpadi, Vellore and from that date onwards, they have become husband and wife and started living with the petitioner's parents. Since they did not inform their marriage to the detinue's family, the petitioner's father Panchaksharam called the 3rd respondent, the father of the detinue and informed him about the said marriage and formally invited him to visit his house. Though initially the family members of the detinue Abinaya have visited the house of the petitioner and agreed to arrange for formal reception during Thai, 2021 and as their wish, the petitioner's father took Abinaya to her parents home on 04.01.2021 and returned to Vellore leaving Abinaya in the custody of her parents, after few days, the attitude and conduct of Abinaya's parents became indifferent and rude and they started using abusive words against the petitioner and his family members. Further, the 3rd respondent and his wife, namely, the parents of the detinue have not agreed for sending back Abinaya to the petitioner's house and they have snatched Abinaya's mobile by forcibly keeping her under their illegal custody which is opposed to law. Therefore, the petitioner has been advised to come to this Court seeking to issue a Writ of Habeas Corpus directing the respondents 1 and 2 to produce the detinue Abinaya, aged about 26 years, the petitioner's wife before this Court and set her at liberty from the illegal custody of the respondents 3 to 5. Learned Counsel for the petitioner has also produced some copies of photographs along with the typed set of papers in this regard.

4. Learned Additional Public Prosecutor, who takes notice on behalf of the respondents 1 and 2, submitted that though it was stated that the marriage between the petitioner and the detainee Abinaya was performed before the petitioner's friends, namely, Abimanyu, Lokesh and Harikumar on 29.10.2020 at Mariamman Temple nearby Kalinjur Lake, Katpadi, Vellore, there is no proof to substantiate the same by producing any evidence or photographs either taken by his friends or by the petitioner himself using their cell phones or smart phones, as all are highly educated. Therefore, when there is not even any single photograph taken by them using their cell phones to substantiate the contention of the petitioner that they got married on 29.10.2020, the petitioner cannot file this Habeas Corpus Petition on the capacity of the husband of the detainee, because he has not even proved his marriage status as husband of the detainee. Therefore, the question of issuing a Writ of Habeas Corpus on the ground that the detainee Abinaya has become the legally wedded wife of the petitioner is ruled out.

5. Learned Additional Public Prosecutor further submitted that the alleged marriage was said to have been performed on the roadside temple which has also not issued any marriage certificate for the same. Under such circumstances, the issuance of Writ of Habeas Corpus would definitely not only affect the future and modesty of the detainee, but also the reputation and goodwill of the detainee's family. Therefore, the petition filed by the petitioner on the capacity of the husband of the detainee Abinaya has got no merit. Learned Additional Public Prosecutor also submitted that the copies of the photographs annexed with the typed set of papers are only the group photographs which are not conveying any semblance of marriage alleged to have taken place between the petitioner and the detainee Abinaya. Hence, this Habeas Corpus Petition is liable to be dismissed.

6. Heard the learned Counsel on either side. We have also gone through the typed set of papers carefully.

7. On a perusal of the records, we are also able to see that not even a single photograph showing the solemnization of marriage between the petitioner and the detainee Abinaya was produced when the petitioner claims that the marriage was solemnized on 29.10.2020 in the presence of his friends Abimanyu, Lokesh and Harikumar at Mariamman Temple nearby Kalinjur Lake, Katpadi, Vellore and there is no Registration Certificate produced to prove the said marriage from the nearby Registrar Office that shows that there is no such marriage. As rightly canvassed by the learned Additional Public Prosecutor, when it is the claim of the petitioner that the marriage was performed between the petitioner and the detainee in the presence

of his friends Abimanyu, Lokesh and Harikumar on 29.10.2020 at Mariamman Temple nearby Kalinjur Lake, Katpadi, Vellore, it is not known how anyone of them have not taken photograph of the marriage. When everyone in today's world is carrying smart phone or cell phone with camera and video device, it is highly imaginary to entertain any plea that there was a marriage solemnized. Therefore, in the absence of any iota of evidence to prove the marriage said to have taken place between the petitioner and the detinue Abinaya, in legal sense, it is presumed that the petitioner is not the husband of the detinue Abinaya. Hence, when the petitioner is not the legally wedded husband of the detinue Abinaya, he has no locus standi to file the present Habeas Corpus Petition.

8. In view of all the above, we find no merits in the present Habeas Corpus Petition. Therefore, the same is liable to be dismissed and accordingly, it is dismissed. However, since the petitioner has wasted the valuable time of this Court by approaching the Court with unclean hands, he is directed to pay costs of Rs.25,000/- (Rupees Twenty Five Thousand Only) to the credit of the Tamil Nadu Advocate Clerks' Association, High Court, Madras, within a period of four weeks from the date of receipt of a copy of this Order.

s/d-
Assistant Registrar(CS-VI)

True Copy

Sub-Assistant Registrar

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To

- 1.The Superintendent of Police, Vellore District,
Vellore-632 009.
2. The Inspector of Police,
Viruthampet Police Station,
Gandhi Nagar, Vellore-632 006.
3. The Public Prosecutor,
High Court, Madras.
- 4.Tamil Nadu Advocate's Clerks Association
High Court, Madras 104.

+1 CC to Mr.R. Manickavel, Advocate sr 21608.

HCP.No.487/2021

JPL(CO)
SP(30/06/2021)