

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.01.2021

Coram

The Hon'ble Mr. Justice P.N.PRAKASH
and
The Hon'ble Mr. Justice V.SIVAGNANAM

H.C.P. No. 2599 of 2020

Elavarasan

... Petitioner

Vs.

1.The Superintendent of Police,
Office of the Superintendent of Police,
Nagapattinam District.

2.The Inspector of Police,
Thittachery Police Station,
Nagapattinam District.

3.Arivu @ Arivazhagan,
S/o.Pannerselvam,
Niravy,
Karaikal District.

... Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of Habeas Corpus directing the respondents 1 and 2 to produce the body of the petitioner's wife Udhaya, aged about 30 years, petitioner's children Kavin, aged about 9 years and Laya Anjitha, aged about 7 years, who are in the illegal custody of the 3rd respondent before this Court and set them at liberty.

For Petitioner : Ms.Greetha Senthilkumar

For RR 1 and 2 : Mr.R.Prathap Kumar
Additional Public Prosecutor

ORDER

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

This habeas corpus petition has been filed seeking to direct respondents 1 and 2 to produce the body of the petitioner's wife Udhaya, aged about 30 years, petitioner's children Kavin, aged

about 9 years and Laya Anjitha, aged about 7 years, who are in the illegal custody of the 3rd respondent before this Court and set them at liberty.

2. It is the case of the petitioner that he got married to Udaya, through whom, he has two children viz., Kavin and Laya Anjitha; the spouses got estranged in the year 2017, pursuant to which, the petitioner filed an application for restitution of conjugal rights before the Subordinate Court, Nagapattinam.

3. Since his wife did not join him, the petitioner has now filed H.M.O.P.No.204 of 2019 in the Subordinate Court, Nagapattinam, for divorce. While that being so, it is the case of the petitioner that his wife and children are being kept in illegal detention by the third respondent.

4. On instructions, the learned Additional Public Prosecutor submitted that on the complaint given by the petitioner, a petition enquiry in C.S.R.No.2 of 2021 has been registered by the second respondent and the investigation is in progress.

5. In the opinion of this Court, there is no illegal detention of the petitioner's wife and children, inasmuch as, even according to the petitioner, he got estranged from his wife wayback in the year 2017 and the divorce proceedings are pending in H.M.O.P.No.204 of 2019 before the Subordinate Court, Nagapattinam.

In such view of the matter, this habeas corpus petition is closed with liberty to the petitioner to work out his remedy in the manner known to law. The second respondent shall inform the petitioner of the course of enquiry in C.S.R.No.2 of 2021 from time to time.

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

mmi/nsd
To

1.The Superintendent of Police,
Office of the Superintendent of Police,
Nagapattinam District.

2.The Inspector of Police,
Thittachery Police Station,
Nagappattinam District.

3.The Public Prosecutor,
High Court, Madras.

4.The Secretary to Government,
Public(Law & Order),
Fort Saint George, Chennai - 9.

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