



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.12.2021

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH
AND
THE HONOURABLE MRS.JUSTICE R.HEMALATHA

H.C.P.No.1981 of 2021

Dhasarathan
S/o.Mannar

.. Petitioner

Vs.

1.The Superintendent of Police,
Thiruvannamalai District.

2.The Sub-Inspector of Police,
South Police Station,
Vanthavasi,
Thiruvannamalai District.

.. Respondents

Habeas Corpus Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Habeas Corpus directing the respondents to produce the detainee Chinnaponnu d/o.Munusamy, aged about 45 years, before this Court and set her at liberty.

For Petitioner : Ms.R.Thenmozhi

For Respondents : Mr.R.Muniyapparaj
Additional Public Prosecutor

ORDER

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

This petition has been filed seeking a direction to the respondents to produce the detainee Chinnaponnu d/o.Munusamy, aged about 45 years, before this Court and set her at liberty.

2. One Munusamy and Chandra died several years back leaving behind their children viz., Vasantha, aged 65 years, Shanmugam (deceased) and Chinnaponnu, aged 45 years. Munusamy appears to have left a property, not huge. Vasantha got married to one Pachaiyappan and through him, she has children. Shanmugam got married to Jayalakshmi and they also have children. However, Chinnaponnu was not given in marriage and she remains a spinster. Shanmugam, the elder brother of Chinnaponnu died



leaving behind his widow Jayalakshmi and his children. Chinnaponnu, to sustain herself, was earning her livelihood by being a domestic help in some houses in that area.

3. According to the petitioner (Dhasarathan), Chinnaponnu complained to him that she is being subjected to cruelty by her sister and sister-in-law in order to usurp the property left by her father and sought asylum. Admittedly, the petitioner, who is aged 61 years, is married to one Malliga and has two grown up daughters. According to the petitioner, he gave asylum to Chinnaponnu and took steps with the revenue authorities to ensure that the name of Chinnaponnu was included in the patta of the land that was left by Munusamy, father of Chinnaponnu. A copy of the patta dated 17.09.2021 was produced before us and it shows that the name of Chinnaponnu finds a place along with that of Jayalakshmi (sister-in-law of Chinnaponnu) and her two children Swetha and Sujatha, and Vasantha (eldest sister of Chinnaponnu).

4. It is the allegation of the petitioner that on 19.10.2021, on a police complaint given by Vasantha, the South Police Station, Vandavasi, took forcible custody of Chinnaponnu from him and handed her over to Vasantha. Asserting that Chinnaponnu is being illegally detained by Vasantha and Jayalakshmi for usurping the property left by her father Munusamy, the petitioner has filed the present petition.

5. In this petition, the petitioner has shown only the Superintendent of Police, Tiruvannamalai District and the Sub-Inspector of Police, South Police Station, Vandavasi, Tiruvannamalai District as respondents and has not included either Vasantha or Jayalakshmi as respondents. However, prior to the petition being listed for admission, the office of the Public Prosecutor took notice as per the practice of this Court for getting instructions.

6. Today, when the matter was taken up for hearing, Mr.Senthilvel, Advocate, entered appearance and stated that Vasantha's family will produce Chinnaponnu before us today. Accordingly, Chinnaponnu was produced before us by Jayalakshmi and one Manikandan, a distant relative of Chinnaponnu.

7. Today, Mr.V.Elumalai, Special Sub-Inspector of Police and Ms.S.Priya, Grade-II 2143, Vandavasi South Police Station, are also present.

8. At the outset, Mr.Senthilvel, learned counsel, submitted that this petition is not maintainable inasmuch as the petitioner, being a married person, cannot claim custody of Chinnaponnu, especially, when Chinnaponnu's blood sister



Vasantha is available. Learned counsel also contended that in the absence of Vasantha or Jayalakshmi being made as a party, this petition deserves to be dismissed at the threshold.

9. Though this submission appeared attractive to us initially, when we enquired Chinnaponnu, she burst out in the open Court and stated that she is being tormented by her sister and sister-in-law for the property and that she would be more comfortable with the petitioner since the petitioner had saved her from them and had protected her for long.

10. Mr.Senthilvel, learned counsel for Vasantha, produced some medical records from the Department of Psychiatry, Unit - II, Christian Medical College, Vellore, to show that Chinnaponnu is under treatment for mental illness and therefore, whatever she states should not be taken at the face value.

11. We perused the medical records and found that these medical records are of recent origin, viz., from 29.10.2021. We do not find Chinnaponnu to be so mentally ill as not being in a position to take informed decisions. Though we cannot go into the matrimonial status of the parties, yet, we feel that Chinnaponnu should be set at liberty to chalk out her own life without being influenced by anyone. Therefore, we set her at liberty and if she is desirous of going with the petitioner, the same cannot be stopped by anyone and the police should ensure that no harm befalls Chinnaponnu.

With the above direction, this Habeas Corpus Petition is closed.

Sd/-
Assistant Registrar (CS-V)

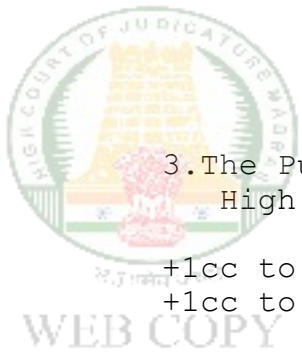
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Sub Assistant Registrar

gm

To

- 1.The Superintendent of Police,
Thiruvannamalai District.
- 2.The Sub-Inspector of Police,
South Police Station,
Vanthavasi,
Thiruvannamalai District.



3.The Public Prosecutor
High Court, Madras.

+1cc to M/s.Thenmozhi Shivaperumal, Advocate, S.R.No.64510
+1cc to Mr.S.Senthil Vel, Advocate, S.R.No.64697

H.C.P.No.1981 of 2021

JPL(CO)
SB(17/12/2021)