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H.C.P.(MD)No.1740 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 06.12.2021

Delivered on : 20.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

and

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

H.C.P. (MD)No.1740 of 2021

D.Jegan

... Petitioner / Husband of
the detenue

-vs-

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

2.The Inspector of Police,
All Women Police Station,
Aranthangi,
Pudukottai District.

3.Kanagarathinam

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Habeas Corpus, to direct the respondents 1 & 2 to secure the detenu Aishwarya, W/o.Jegan, aged about 22 years from the illegal custody of the third respondent and produce her before this Court and set her at liberty.

For Petitioner : Mr.T.Lenin Kumar

For R1 & R2 : Mr.S.Ravi

Additional Public Prosecutor

For R3

: Mr.K.Gokul

O R D E R

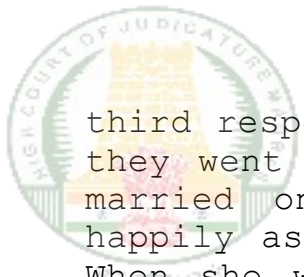
S.VAIDYANATHAN, J.

and

G.JAYACHANDRAN, J.

The petitioner D.Jegan, S/o.Dhayanithi, aged about 23 years has come to this Court by filing the Writ Petition seeking Habeas Corpus to secure the detenu Aishwarya, aged about 22 years from the illegal custody of her father, the third respondent and produce her before this Court and set her at liberty.

2. According to the petitioner, he and the detenu Aishwarya were studying B.B.A., Course together in National College, Trichy. <https://hcservices.ecgusts.gov.in/hcservices/> they fell in love with each other and decided to marry. Since the



third respondent, the father of Aishwarya did not agree for that, they went to Thaladiyar Kovil, Trichy, exchanged garland and got married on 12.03.2021. Since then, they were living together happily as husband and wife at Trichy. Aishwarya got conceived. When she was three months pregnant, the mother of the Aishwarya called her over phone and threatened her that if she does not return to Aranthangi, she will commit suicide. Aishwarya also was promised by her mother that on return to Aranthangi, they will arrange for a proper marriage. Believing that, the petitioner sent his wife Aishwarya along with her mother to Aranthangi, but later, he came to know that Aishwarya's parents have caused miscarriage and also threatened to kill her to save their honour. Fearing danger to her life, the petitioner on 08.11.2021 has lodged a complaint to All Women Police Station, Aranthangi, for which, a CSR receipt was given to him. In spite of petition, the second respondent failed to secure his wife Aishwarya and therefore, he sent a representation to the first respondent, the Superintendent of Police, Pudukkottai by post on 10.11.2021 and thereafter, filed the present habeas corpus petition on 16.11.2021 for the relief prayed above.

3. The learned counsel for the third respondent, the father of the alleged detenu Aishwarya, state that Aishwarya was given in marriage to one Jagadeesh Narandra Visvakumar and she is happily living with him presently. The contention of the writ petitioner is malicious and intended to tarnish the reputation of the detenu girl, who studied with him.

4. When the matter came up for admission, this Court reading the gist of the complaint given by the petitioner to the second respondent police, dated 08.11.2021 and the complaint given to the Superintendent of Police two days later, found material inconsistency, directed the learned Additional Public Prosecutor to enquire the matter and report and also directed the petitioner to file an affidavit explaining the contradictions found in his complaint dated 08.11.2021 and representation dated 10.11.2021.

5. This Court got suspicion about the case of the petitioner because in his first complaint dated 08.11.2021 given to the second respondent, he has not mentioned anything about the marriage with Aishwarya, but had only disclosed that he was in love with Aishwarya, and he was threatened by the family members of Aishwarya and he understand that Aishwarya is detained in a room and being tortured, whereas, in the complaint forwarded to the first respondent, he has enclosed the photographs with the Aishwarya and has alleged that he married her on 12.03.2021 and living with her at Tiruchy as husband and wife. When she left to her parents house, she was three months pregnant and now, he came to know that the fetus has been aborted and her whereabouts not



known. The contention in the said representation, dated 10.11.2021 is almost similar to the averments made in the affidavit sworn by the petitioner on 16.11.2021.

6. When the matter was taken up subsequently on 06.12.2021 the learned Additional Public Prosecutor submitted that the complaint of the petitioner dated 08.11.2021 was taken up for investigation on the same day, the said Aishwarya was called to the police station and her statement was recorded. Aishwarya, the alleged detenu, has denied the complaint made by the petitioner herein and stated that she is with her parents without any compulsion, but the petitioner by filing a frivolous complaint, causing her and her family members mental cruelty. Therefore, she has need protection for herself and her family members from the petitioner.

7. While fact being so, soon thereafter, the present habeas corpus petition has been filed as if the petitioner has married the girl on 12.03.2021 and made her pregnant. The second respondent had registered a case against the petitioner herein in Cr.No.15 of 2021 for the offence under Sections 193, 196, 417 and 420 IPC. Since the statement found in the complaint as well as in the affidavit was contrary to the petition made two days ago to the second respondent and from the statement of the detenu recorded on 08.11.2021,

8. In this circumstances, on behalf of the petitioner, affidavit dated 04.12.2021 has been filed which reads as below:-

"2. I submit that I filed the above Habeas Corpus Petition in H.C.P(MD)No.1740 of 2021, seeking for issuance of Writ of Habeas Corpus, directing the respondents 1 & 2 to secure the detenu Aishwarya, W/o.Jegan, aged about 22 years from the illegal custody of the 3rd respondent and produce her before this Hon'ble Court and set her at liberty.

3. I submit that on 23.11.2021, when the above Habeas Corpus Petition came up for hearing, the counsel appeared on behalf of the 3rd respondent produced a copy of marriage certificate stating that already the detenu has got married with one Jegadeesh Narendra Vishwakumar. Hence, this Hon'ble Court directed the 2nd respondent to file a report by 30.11.2021. In this connection, the 2nd respondent police registered a case against me in Crime No.15 of 2021 for the alleged offence U/s.193, 199, 417 & 420 of IPC.

4. I submit that the crux of the FIR is that on 16.11.2021, I filed the above Habeas Corpus Petition stating that on 12.03.2021, I got married with the detenu and when the detenu was 3 months pregnant, her parents caused miscarriage to her. It is further



alleged that on 08.11.2021, I lodged a complaint before the 2nd respondent stating that I fell in love with the detenu and I decided to marry the detenu. It is further alleged that by furnishing false particulars, I filed the above Habeas Corpus Petition.

5. I submit that I withdraw all the allegations and averments made in the affidavit. I am tendering my unconditional apology for the allegations and averments leveled therein. I hereby undertake that I will not interfere with the peaceful life of the detenu in future. I further undertake that I will not initiate any proceedings either in Civil or criminal seeking the very same relief or other reliefs against the detenu before any court of law in future. I further undertake that I will destroy all the letters, greeting cards, Whatsapp chats, photographs and phone messages immediately. If I breach my undertaking, this Hon'ble Court may take appropriate criminal action against me.

6. I submit that my father is a Cable TV operator and he has 4 sons. I am the youngest son of my father. My eldest brother Naveen Babu is a Diploma Holder in Civil Engineering, my 1st elder brother Eswaran is a B.A. Graduate and my 2nd elder brother is a Diploma Holder in A/C Mechanic. Out of my father's hard earned money, my brothers and me pursued our education. My father reposed confidence on me that I will protect our family after completing my education. But, I spoiled my father's dream by doing such act. Even got won't forgive me.

7. I submit that since the above issue is published in the daily news papers, my parents lost their sleep and they are not able to come out of the house. I am fully responsible for the above said happenings. If the 2nd respondent proceeds with the FIR, I will lose my future. Hence, I hereby once again undertake that I will not indulge in any such act in future and I will not disturb the detenu either in-person or through phone in future. Hence, this Hon'ble Court may accept my apology and permit me to withdraw the above Habeas Corpus Petition."

9. This Court perusing the records and after hearing the respective counsels, prima facie convinced that the petitioner herein taking advantage of the acquaintance with the girl had spined the story with an intention to malign the detenu. When his complaint dated 08.11.2021 alleging illegal detention was taken up for enquiry and found to be false, soon thereafter, the petitioner had invented the story of marriage and pregnancy so as to add spice to his habeas corpus petition. Immediately, after



forwarding the representation to the Superintendent of Police on 10.11.2021, the habeas corpus petition has been filed on 16.11.2021. After being exposed of his ill-design to malign the girl, now the petitioner had come out with the affidavit dated 04.12.2021 which is in apologetical in nature.

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10. This Court is of the firm view that these sort of conduct has to be curtailed with heavy hand or else the machinery of justice will be grossly abused. However, in this case, taking note of the facts such as the age of the petitioner and the future of the girl, we wish to close the habeas corpus petition imposing a cost of Rs.25,000/- (Rupees Twentyfive Thousand only) to the petitioner payable to the Legal Services Committee, attached to this Bench. Taking note of the future of the petitioner, this Court directs the second respondent to drop the proceedings initiated against the writ petitioner in Cr.No.15 of 2021. This direction will not stand in the way of the respondents to proceed against the petitioner herein, if in case, he interfere with the affairs of the girl Aishwarya contrary in any manner, whatsoever to his undertaking affidavit.

11. In view of the above, this habeas corpus petition is closed.

Sd/-

Assistant Registrar (AD II)

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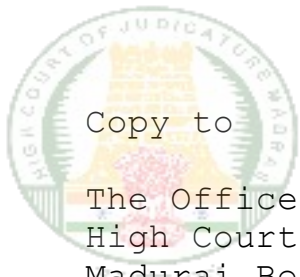
/ /2021

Sub Assistant Registrar(CS)

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To

- 1.The Superintendent of Police,
Pudukottai District,
Pudukottai.
- 2.The Inspector of Police,
All Women Police Station,
Aranthangi,
Pudukottai District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



Copy to

The Officer Incharge,
High Court Legal Service Committee,
Madurai Bench of Madras High Court, Madurai

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H.C.P. (MD) No.1740 of 2021
20.12.2021

NSN (CO)
SB(29.12.2021) 6P 5C