



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

and

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

H.C.P.(MD) No.1797 of 2021

M.Mohamed Bashir

... Petitioner

-vs-

1.The Superintendent of Police
Dindugul District
Dindugul

2.The Inspector of Police
Town South Police Station
Dindugul

3.S.Habibul Nisha

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of habeas corpus directing the respondents 1 and 2 to produce the body or person of the detainee namely Arifa Banu, wife of Mohamed Bashir, aged about 36 years old before this Court and set her at liberty.

For Petitioner : Mr.Chandrakumar.A.

For Respondents : Mr.S.Ravi

Additional Public Prosecutor for R1 & R2

O R D E R

S.VAIDYANATHAN, J.

and

DR.G.JAYACHANDRAN, J.

The husband, alleging that his wife is found missing, has filed this habeas corpus petition.

2. The learned Additional Public Prosecutor has taken notice of the petition and produced the lady, who is the wife of the petitioner herein through video conference.

3. It is submitted by the learned Additional Public Prosecutor that there is a matrimonial dispute between the petitioner and his wife, who is alleged to be illegally detained by her mother, the third respondent herein. Against the petitioner herein, his wife has filed a complaint under Section 498(A) I.P.C.,



and after investigation, final report has been filed before the learned Judicial Magistrate, Manapparai, in C.C.No.23 of 2021. While so, the petitioner himself has approached the Family Court, Dindigul, filing O.S.No.22 of 2021 seeking restitution of conjugal rights. In such circumstances, suppressing these facts, the petitioner has filed this habeas corpus petition as if the summons sent to his wife in O.S.No.22 of 2021, returned with an endorsement "no such addressee" and therefore, she is deemed to be missing from her parents house. It is also brought to our notice by the learned Additional Public Prosecutor that in C.C.No.23 of 2021, pending on the file of the learned Judicial Magistrate, Manapparai, the wife of the petitioner appeared and gave her evidence in chief and the matter was adjourned to 02.12.2021 for cross-examination. Though she was present and ready for submitting herself for cross-examination on 02.12.2021, the petitioner herein was not ready to cross-examine her and therefore, the matter stands adjourned to future date.

4. While the fact being so, with an ulterior motive, the petitioner has filed this habeas corpus petition suppressing facts. Hence, this Court is of the view that the habeas corpus petition is liable to be dismissed with costs.

5. Accordingly, the habeas corpus petition is dismissed with a cost of Rs.10,000/- (Rupees ten thousand only) payable to the High Court Legal Services Authority, Madurai Bench of Madras High Court, Madurai, within a period of two weeks from the date of receipt of a copy of this order.

Sd/-

Assistant Registrar (AD-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

krk

Note :In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned

To:

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

<https://hcservices.ecourts.gov.in/hcservices/>



2.The Inspector of Police,
Town South Police Station,
Dindugul.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

COPY To:-

1.THE CHAIRMAN,
HIGH COURT LEGAL SERVICES AUTHORITY,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

2.MR.M.MOHAMED BASHIR,
S/O.MOHAMED HUSSAIN,
NO.7 ANNAI NAGAR,
BEGAMPUR,
DINDIGUL TOWN,
(DIRECTED TO PAY COST TO HIGH COURT LEGAL SERVICES AUTHORITY)

H.C.P. (MD) No.1797 of 2021
03.12.2021

KMV(CO)
GC(20.12.2021) 3P 6C