



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.03.2022

Coram

The Honourable Mr. Justice P.N.PRAKASH
and
The Honourable Mr. Justice A.A.NAKKIRAN

H.C.P.No.349 of 2022

Vaidheki

.. Petitioner

Vs.

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

2.State rep. by
The Inspector of Police,
Mamallapuram Police Station,
Chengalpet District.

3.Kalaivani

... Respondents

Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus directing the first and second respondents to produce the petitioner's son-in-law named R.Balaji, aged 44 years and the petitioner's daughter named B.Chitra, aged 42 years, the detenus before this Court from the illegal custody of the third respondent and set them at liberty forthwith.

For Petitioner : Dr.G.Krishnamurthy

For Respondents : Mr.R.Muniyapparaj,
Addl. Public Prosecutor
for R1 and R2
Mr.G.Palani for R3



ORDER

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

Seeking a direction to respondents 1 and 2 to produce the detenus - Balaji and Chitra from the illegal custody of the third respondent, the petitioner has filed the present habeas corpus petition.

2. On 04.03.2022, this Court passed the following order:

It is the case of the petitioner that his daughter Chitra and son-in-law Balaji, aged about 42 and 44 years, respectively, had money transactions with Kalaivani, third respondent and Kalaivani (R3) has abducted them and keeping them in illegal confinement.

2. On these allegations, the petitioner filed H.C.P.No.2190 of 2021, in which, this Court, by order dated 05.01.2022, directed the petitioner to approach the jurisdictional Magistrate under Section 97 Cr.P.C. for the issuance of a search warrant.

3. Accordingly, the petitioner filed CrI.M.P.No.53 of 2022 in the Court of Judicial Magistrate No.I, Thirukazhukundram. By order dated 02.02.2022, the learned Magistrate directed the police to search the premises of Kalaivani (R3) and file a report. Therefore, the Inspector of Police, conducted search in Kalaivani's (R3's) house and filed a report stating that Chitra and Balaji are not in the illegal detention of Kalaivani (R3) in her house.

4. While that being so, the petitioner has filed the present habeas corpus petition alleging that her daughter Chitra and son-in-law Balaji are in the illegal detention of Kalaivani (R3).

5. The learned Additional Public Prosecutor submitted that the investigation conducted by the police revealed that Chitra and Balaji have financial transactions with other persons apart from Kalaivani (R3) and in order to avoid payment, they are in abscondance.

6. However, the fact remains that Chitra and Balaji are yet to be traced. Therefore, this Court directs the petitioner to go in person to the second



WEB COPY

respondent/police and lodge a written complaint about the missing of Chitra and Balaji. On such complaint being filed, the second respondent/police shall register a regular FIR for 'women and man missing' and report before this Court on 11.03.2022.

7. Notice to Kalaivani (R3) returnable by 11.03.2022. Private notice is also permitted.
Post the matter on 11.03.2022.

3. On 11.03.2022, this Court passed the following order:

This petition has been filed seeking a direction to the respondents 1 and 2 to produce her son-in-law R.Balaji, aged 44 years and her daughter B.Chitra, aged 42 years, the detenues, before this Court, from the illegal custody of third respondent and set them at liberty forthwith.

2. Pursuant to the order dated 04.03.2022, private notice was taken for third respondent and today, Mr.G.Palani, Advocate [Enrl.No.1067/1993], has entered appearance for the third respondent and submitted that the detenues Chitra and Balaji are not in the custody of third respondent. Learned counsel also submitted that the third respondent had lent around Rs.10,00,000/- to the detenues Chitra and Balaji, to recover which, the third respondent has filed suits in O.S.Nos.54 and 56 of 2022 in the Sub Court, Chengalpet.

3. Mr.S.Vijayakumar, Sub-Inspector of Police, Mamallapuram Police Station [Mobile No.94981 47241], is present.

4. On instructions, learned Additional Public Prosecutor submitted that the petitioner has not appeared before the police for giving complaint and therefore, the police was unable to register a First Information Report for 'man and woman missing' as directed by this Court in the order dated 04.03.2022.

5. Dr.G.Krishnamurthy, learned counsel for the petitioner, submitted that the order dated 04.03.2022 was received only on 10.03.2022 and therefore, the petitioner was unable to go to the police station and lodge a complaint.



Accepting the aforesaid submission, the matter stands adjourned to 25.03.2022.

4. Today, Mr.S.Vijayakumar, Sub Inspector of Police, Mamallapuram Police Station, Chengalpet is present.

5. On instructions, learned Additional Public Prosecutor submitted that on the complaint given by the petitioner, a case in Mamallapuram Police Station Crime No.167 of 2022 has been registered on 19.03.2022 for 'man and woman missing'.

6. Since Balaji and Chitra are not in illegal custody of the respondents, no writ of habeas corpus can be issued. However, we direct the Deputy Superintendent of Police, Mamallapuram to supervise and monitor the investigation in Mamallapuram P.S. Crime No.167 of 2022 and keep the petitioner informed about the developments in that case. If the detenus are secured, they shall be produced before the Judicial Magistrate, Thirukazhukundram, under intimation to the petitioner.

7. With the above direction, the habeas corpus petition stands closed.

Sd/-

Assistant Registrar(CO)

// True Copy //

Sub Assistant Registrar

mmi

To

1. The Superintendent of Police,
Chengalpet District, Chengalpet.
2. The Inspector of Police,
Mamallapuram Police Station,
Chengalpet District.
3. The Deputy Superintendent of Police,
Mamallapuram.
4. The Judicial Magistrate,
Thirukazhukundram.



5.The Public Prosecutor,
High Court, Madras.

+lcc to Mr.G.Krishnamurthy, Advocate SR.No.20219

WEB COPY

H.C.P.No.349 of 2022

PL (CO)
CB(05/04/2022)