



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.06.2022

CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH
AND
THE HONOURABLE MRS.JUSTICE S.ANANTHI

H.C.P. (MD) No.521 of 2022

Basariya

... Petitioner/Wife of the detenu

-VS-

1. The Union of India,
Rep. by its Secretary,
Ministry of External Affairs,
No.2106, B-Wing,
Jawaharlal Nehru Bhavan,
New Delhi - 11.
2. The Consulate General of Malaysia,
New No.7, Old No.3,
Cenotaph Road, 1st Street,
Teynampet, Chennai - 18.
3. The District Collector,
Ramnad District.
4. The Superintendent of Police,
Ramnad District.
5. The Inspector of Police,
Kenikkarai Police Station,
Ramnad District.
6. Sikkandar

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of habeas corpus directing the respondents 1 to 5 to deport the detenu namely Mohamed Sirajudeen, S/o.Amanullah Khan, having Passport No.M-6600637, now aged about 48 years, who is now under illegal custody at J.S.Store and Fresh Market, No.44, Jalankosas, 1/5, Ampangkoses, Malaysia and produce the body or person of the detenu before this Court and set him at liberty.



WEB COPY

For Petitioner : Mr.D.Venkatesh

For Respondents : Mr.T.Senthil Kumar,
Additional Public Prosecutor
for R3 to R5
Mr.G.Thalaimutharasu,
Senior Panel Counsel for R1

O R D E R

[Made by P.N.PRAKASH, J.]

This habeas corpus petition has been filed seeking to direct the respondents 1 to 5 to deport the detenu namely Mohamed Sirajudeen, aged about 48 years, from Malaysia and to produce him before this Court.

2. It is the case of the petitioner that her husband Mohamed Sirajudeen, aged about 48 years, was sent to Malaysia by the sixth respondent, on employment sometime in the year 2018. The petitioner's husband was employed in M/s.J.S.Store and Fresh Market, No.44, Jalankosas, 1/5, Ampangkoses, Malaysia. It is the further grievance of the petitioner that she received a phone call from her husband sometime in November, 2020 saying that he is being illegally detained by his employer on the allegation that he has misappropriated some amounts.

3. When the petitioner contacted the sixth respondent, he told her that her husband had misappropriated some amounts and if the money is returned, her husband would be released from Malaysia. Therefore, the petitioner gave a power of attorney dated 30.11.2020 to the sixth respondent on the strength of which, the sixth respondent sold a property belonging to the family of the petitioner and raised money, despite which, the petitioner's husband was not released. Thereafter, the petitioner gave a complaint to the District Collector and has filed the present habeas corpus petition.

4. On notice, Mr.G.Thalaimutharasu, learned Senior Panel Counsel, entered appearance for the first respondent and filed an e-mail that has been received from the Second Secretary, High Commission of India, Kuala Lumpur, which reads as under:-

"Please refer to email regarding Habeas Corpus petition filed by Mrs. Basariya w/o Mr. Mohamed Sirajudeen (PP No. M6600637).

2. After receiving the letter dated 20 April 2022 from Senior Standing Counsel regarding Mr. Sirajudeen, the Mission immediately contacted the employer and intimated the jurisdictional police and immigration authorities about the case. After repeated follow-ups, in the morning of 27 April 2022, the owner of M/s J.S. Setor (Mr. Muhammad Shafeeq bin Ahamed Salihin) came to the Mission along with Mr. Sirajudeen.



3. During the interaction, Mr. Sirajudeen stated the following:

a) He was no longer willing to stay with the owners of M/s J.S. Setor and requested not to be sent back with them;

b) He requested that all actions be taken as per law, a proper investigation be conducted in the matter and that he was will cooperate;

c) He wanted to go back to India at the earliest;

d) Since the employer had made a complaint against him for stealing money from the shop, he had agreed to transfer the proceeds from sale of his house in India to the employer's friend in India, one Mr. Sikandar, on the assumption that he would be allowed to go back to India;

e) He had already returned more money than what had been alleged to be stolen by the employer:

f) He had been previously working as a cashier at M/S J.S. Store and that even after these allegations were made, he was made to continue working as a cashier, and

g) Despite making him work, the employer had not paid him salary for 7 months; refused to send him back to India; and hadn't even arranged for Covid-19 vaccinations to be given.

4. On the other hand, the employer alleges that Mr. Sirajudeen has stolen close to RM 600,000 (approx. Rs. 1,05,00,000/-) from 2016 to 2020. The employer stated that they could not allow him to go to India unless he returned the stolen amount.

5. While the nature of crime, if any, committed by Mr. Sirajudeen is a subject matter of police investigation and beyond the remit of the Mission, it appears that the employer M/s J.S. Setor has demanded certain sums from the family in return for allowing Mr. Sirajudeen to return back to India. The employer has admitted to asking the wife to sell off her belongings in order to pay up the balance sum. As mentioned in the Habeas Corpus petition, the family is concerned regarding the safety and well-being of Mr. Sirajudeen. Based on the foregoing. Mr. Sirajudeen has requested to be temporarily put up in the shelter operated by the Mission, with necessary intimation to the jurisdictional police authority being made in this regard.

6. Please find attached written statement (5 pages) made by Mr. Sirajudeen."



5. A reading of the above shows that the Government of India took up the matter seriously and through the High Commission of India in Kuala Lumpur, have conducted an enquiry on the allegations made in the habeas corpus petition for which, we place our profound commendation. We also place on record our appreciation for the High Commission of India for being proactive in safeguarding the interests of our citizens.

6. Thus, it is seen that the petitioner's husband is not in the illegal custody of the sixth respondent herein for the issuance of a writ of habeas corpus. On the contrary, the petitioner's husband appears to have got himself involved in a case for which, he is facing action in Kuala Lumpur. However, he is secure in the shelter operated by the Indian Mission and he is under the watch of the High Commission of India.

7. Recording the same, this habeas corpus petition is closed.

Sd/-

Assistant Registrar (CS I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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To:

1. The Secretary,
Union of India,
Ministry of External Affairs,
No.2106, B-Wing, Jawaharlal Nehru Bhavan,
New Delhi - 11.
2. The Consulate General of Malaysia,
New No.7, Old No.3,
Cenotaph Road, 1st Street,
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3. The District Collector,
Ramnad District.
4. The Superintendent of Police,
Ramnad District.



5. The Inspector of Police,
Kenikkarai Police Station,
Ramnad District.

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

+1 CC to M/s.G.THALAIMUTHARASU, Advocate (SR-24495[F] dated 08/06/2022)

+1 CC to M/s.D.VENKATESH, Advocate (SR-24555[F] dated 08/06/2022)

H.C.P. (MD) No.521 of 2022
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