



WEB COPY

H.C.P.No.1902 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 07.11.2023

CORAM:

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

and

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

H.C.P.No.1902 of 2023

S.Asan Banu,

...Petitioner

Vs.

1.The Commissioner of Police,
Office of the Commissionerate,
Vepery, Chennai.

2.The Inspector of Police,
All Woman Police Station,
Nolambur,
Chennai.

3. Tmt.P.Hasanammal

4. Tmt.Parveen

5. Mr.Gani Annavi,

...Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of habeas corpus directing the respondents to produce the body of Faizal Mohammed, age 41 years, detinue before this Court from the illegal custody of Respondents 3 to 5 and set him at liberty.



WEB COPY

H.C.P.No.1902 of 2



For Petitioner : Mr. V.V.Sairam
For Respondents : Mr.E.Raj Thilak
Additional Public Prosecutor
Assisted by
Mr.C.Aravind
for R1 and R2

ORDER

(Order of the Court was made by **SUNDER MOHAN,J.**)

The above Habeas Corpus petition has been preferred by the wife alleging that her husband left the matrimonial home without informing her; that she had earlier lodged an FIR in Crime No.287 of 2019, at Vadavalli Police Station; that she had also filed a divorce petition in DVC No. 608 of 2019, on the file of the Mahila Court, Coimbatore; that the Mahila Court Judge, Coimbatore, passed orders directing her husband to pay a sum of Rs. 5,000/- (Rupees Five Thousand only) per month and Rs.5,00,000/- (Rupees Five Lakhs Only) as compensation; that her husband/the detenu has remained ex-parte before the Court; and that the respondents 3 to 5 who are the mother and relatives of the detenu have kept him in illegal custody.

2. Mr.E.Raj Thilak, the learned Additional Public Prosecutor, on instructions submitted that the petitioner and her husband had matrimonial



differences; that on an enquiry with the third respondent, it was found that he was not in illegal custody.

3. Heard both sides.

4. This Court finds from the averments and the affidavit filed in support of the petition and the submissions made by the learned Additional Public Prosecutor that it is a case of matrimonial dispute between the petitioner and the detenu. The averments in the affidavit are improbable and do not suggest that the detenu is in illegal custody of his own mother namely the third respondent. From the averments in the affidavit, it is seen that the petitioner is aggrieved by the fact that the detenu refused to maintain her and had not complied with the orders passed by the Mahila Court, Coimbatore, granting the compensation to the petitioner and awarding maintenance to her. It is a case of matrimonial dispute and if the petitioner is aggrieved due to the fact that her husband is not complying with the order awarding maintenance the remedy lies elsewhere. Therefore, we are not inclined to entertain this Habeas Corpus petition.

5. Accordingly, this Habeas Corpus Petition is closed.



H.C.P.No.1902 of 2



(S.S.S.R.,J)

(S.M.,J)

07.11.2023

Internet: yes

Neutral citation: yes/no
dk

S.S.SUNDAR,J.
and
SUNDER MOHAN,J.
dk

H.C.P.No.1902 of 2023



WEB COPY

H.C.P.No.1902 of 2



07.11.2023