



HCP(MD)No.373 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 20.03.2023

CORAM

The Honourable Mr. Justice **R.SURESH KUMAR**
and
The Honourable Mr. Justice **K.K.RAMAKRISHNAN**

H.C.P.(MD)No.373 of 2023

T.Saroja

.. Petitioner

Vs.

1.The Superintendent of Police,
Kanyakumari District,
Nagercoil.

2.The Inspector of Police,
Vadasesri Police Station,
Nagercoil
Kanyakumari District.

3.The Superintendent of Police
Tiruvannamalai District,
Tiruvannamalai.

4.The Inspector of Police,
Town Police Station,
Tiruvannamalai
Tiruvannamalai District.

.. Respondents

Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus to direct the 1 to 4 respondents herein to produce the



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person or body of the detenu namely Rajesh (Male) aged about 49 years, son of Late Natarajan, 7A1 Otrai Street, Vadasery, Nagercoil, Kanyakumari District before this Court and set him at liberty.

For Petitioner : Mr.S.Vashik Ali

For Respondents : Mr.A.Thiruvadikumar
Additional Public Prosecutor

ORDER

[Order of the Court was made by **R.SURESH KUMAR, J.**]

The petitioner's son is said to have been missing from 14.12.2019 and at that time itself, a complaint has been given to the Inspector of Police. Thereafter, a Habeas Corpus Petition has been filed in HCP No.1946/2020 before the Principal Seat of this Court, where a Division Bench of this Court, by order dated 28.09.2022, has passed the following order:

“4.Admittedly, the petitioner's son went missing as early as on 14.12.2019 in connection with which, even according to the petitioner, a complaint has been given to the Inspector of Police, Vadacherry Police Station. While so, just because someone had seen her son in Tiruvannamalai, a fresh cause of action cannot arise. That apart, it is not the case of the petitioner that her son is in the illegal custody of respondents herein for issuance of a writ of habeas corpus. The Nagercoil



district will not fall within the jurisdiction of this Court and would fall within the jurisdiction of Madurai Bench.

In view of the above, this Habeas Corpus Petition is closed with liberty to the petitioner to work out her remedy in the manner known to law.”

Thereafter, this Habeas Corpus Petition has been filed.

2. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondents.

3. The learned Additional Public Prosecutor would submit that it is a case of 'man missing' and complaint had been registered in the year 2019 at Vadasery Police Station, where steps have been taken to find out the whereabouts of the petitioner's son, however, police could not trace him and in the meanwhile, since simply somebody seen him at Tiruvannamalai, it created a cause of action and therefore, the petitioner filed Habeas Corpus Petition before the Principal Seat, where it was held that it is not the case of the petitioner herself that her son is in the illegal custody, that has been recorded. When that being so, the jurisdiction of this Court even for invoking Habeas Corpus does not arise, he contended.



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4. The said submission made by the learned Additional Public Prosecutor has to be accepted because it is a mere case of man missing for which a complaint has been given and it is for the concerned police to pursue the matter and find out the whereabouts of the son of the petitioner under a man missing case. Since it is not even the allegation of the petitioner that there has been any illegal custody, the question of invoking the jurisdiction of this Court under Article 226 of the Constitution of India for filing habeas corpus petition does not arise. Therefore, recording the same, this Petition is to be dismissed. Accordingly, the Habeas Corpus Petition is dismissed.

(R.S.K.,J.) (K.K.R.K.,J.)
20.03.2023

Index : Yes/No
Internet : Yes
RR



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Tiruvannamalai District.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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