



HCP(MD)No.460 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 10.04.2023

CORAM

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

H.C.P.(MD)No.460 of 2023

A.Pabitha Rahuman

.. Petitioner

Vs.

- 1.The Superintendent of Police,
Ramanathapuram District,
Ramanathapuram.
- 2.The Deputy Superintendent of Police,
Ramanathapuram,
Ramanathapuram District.
- 3.The Inspector of Police,
Ramanathapuram Bazaar Police Station,
Ramanathapuram District.
- 4.Napolean

.. Respondents

Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus directing the respondents 1 to 3 to produce the body or person of the detainee namely Jariyathul Suberiya, aged about 27 years, W/o.Ameen before this Court and set her at liberty.



HCP(MD)No.460 of 2023

For Petitioner : Mr.T.Veerakumar
For Respondents : Mr.E.Antony Sahaya Prabahar
Additional Public Prosecutor

ORDER

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

This Habeas Corpus petition has been filed directing the respondents 1 to 3 to produce the body or person of the detenue namely Jariyathul Suberiya, aged about 27 years, W/o.Ameen before this Court and set her at liberty.

2.When this Habeas Corpus Petition was taken up for hearing, the learned Additional Public Prosecutor appearing for the official respondents, by relying upon the earlier FIR in Crime No.250 of 2022 on the file of the Bazaar Police Station of Ramanathapuram, would submit that it is a case of elopement as the detenue, who is the daughter of the petitioner already had eloped with the 4th respondent in the year 2019 itself.



HCP(MD)No.460 of 2023

3. Thereafter, second time such elopement has taken place, pursuant to which, a woman missing case has been registered as referred to above and thereafter, when the detenue was brought to the police station, she has given a statement stating that she, on her own volition, had eloped with the 4th respondent and at that time, she wanted to go with her husband and that has been recorded by the concerned police on 14.09.2022. Therefore, at that time, when the earlier HCP was filed, in the presence of the petitioner, who is the mother of the detenu, it has also been recorded in the earlier HCP.

4. Relying upon the earlier petition, the learned Additional Public Prosecutor would submit that it is the third occasion, where the detenue has eloped with the 4th respondent and this time also a complaint was given by the husband of the detenue, an FIR has been registered in Crime No. 348/2022 for the offences under Sections 294(b), 323 and 506(ii) IPC and after completing the investigation, the prosecution had filed a charge sheet before the concerned Court and the trial is pending before the concerned Court. Therefore, the learned Additional Public Prosecutor would submit that insofar as all these three occasions, the police have acted upon swiftly and two times though the detenue has been produced before the concerned



HCP(MD)No.460 of 2023

Court and she had admitted that she had eloped with the 4th respondent, this is the third time such an elopement had been taken place. Any how, since complaint had been given by the husband of the detenue as if the 4th respondent along with some other persons abducted the detenue after attacking the husband of the detenue that was also enquired into and investigated, based on which only, the charge sheet has been filed.

5. It was submitted by the learned counsel for the petitioner that the detenue and her husband having two children and in the interest of the two children, some efforts must be taken by the respondent police to bring the detenue before this Court and make her to live with the husband of the detenue.

6. That kind of efforts normally we cannot expect from the police, as the police investigated the matter based on the FIR registered and charge sheet has been filed, moreover it is an admitted case of elopement as has been stated in the written statement given by the detenue herself in the earlier two occasions and this is the third occasion. Therefore, this kind of continuous/habitual elopement attached with the detenue now has been



HCP(MD)No.460 of 2023

unearthed and has been brought before this Court. Hence, we can easily come to the conclusion that there has been no illegal custody on the part of the detenue and on her own willingness only, she might have eloped with the 4th respondent. Therefore, in respect of the personal remedies sought for by the petitioner or the husband of the detenue, those parties can approach the appropriate Court for personal law remedies. Since there is no illegal custody on the part of the detenue, we are inclined to dispose of this Habeas Corpus Petition. By recording the afore-stated, this petition is closed.

(R.S.K.,J.) (K.K.R.K.,J.)
10.04.2023

Index : Yes/No
Internet : Yes
RR



HCP(MD)No.460 of 2023

To

- 1.The Superintendent of Police,
Ramanathapuram District,
Ramanathapuram.
- 2.The Deputy Superintendent of Police,
Ramanathapuram,
Ramanathapuram District.
- 3.The Inspector of Police,
Ramanathapuram Bazaar Police Station,
Ramanathapuram District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



WEB COPY



HCP(MD)No.460 of 2023

R.SURESH KUMAR,J.
and
K.K.RAMAKRISHNAN,J.

RR

H.C.P.(MD)No.460 of 2023

10.04.2023