



H.C.P.(MD) No.476 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 12.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

AND

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

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K.Dhanalakshmi

... Petitioner / Sister of the detainee

Vs.

State rep. by

1.The Commissioner of Police,

Commissioner of Police,

Madurai City.

2.The Inspector of Police,

Thallakulam Police Station,

(Law and Order), Madurai – 2.

3.R.Sivamoorthy

4.R.Poomurugan

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, directing the respondents 1 & 2 herein to



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produce the body or person, the petitioner's blood brother namely, K.Vasanthakumar, son of Karuppaiah aged 28 years before this Court and set him at liberty.

For Petitioner : Ms.S.Vijayashanthi
For R1 & R2 : Mr.A.Thiruvadi Kumar
Additional Public Prosecutor

ORDER

(Order of the Court was made by ***R.SURESH KUMAR, J.***)

The petitioner, seeking production of his blood brother, namely, K.Vasanthakumar, aged about 28 years, has filed this Habeas Corpus Petition.

2.Today, when the matter is taken up for hearing, a status report has been filed by the 2nd respondent, where *inter alia* he has stated that, the detenue seems to have availed some loan along with the petitioner as well as the mother of the detenue and in respect of which an immovable property, where both the petitioner as well as the detenue has got a share along with their mother, seems to have been mortgaged in the bank. In this context, the



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detenue had contacted the respondents 3 and 4 to get a hand loan in order to wipe out the loan that they have already availed from the bank and in this episode it is a case projected by the 2nd respondent in the said report that the detenue, petitioner as well as their mother joined together and enacted a drama as if that the detenue has been in the custody of the respondents 3 and 4, whereas according to the prosecution, the fact remains that the respondents 3 and 4 after providing huge money are struggling to recover it from the detenue or his family. In this context, it is further to be noted that the detenue has written a detailed letter dated 18.05.2023 to the 2nd respondent, where he has stated so many things including that he had visited Madurai on 15.05.2023 (which was wrongly typed as 2022). At that time his family members mentally harassed and tortured him, which further revealed, according to the 2nd respondent that, the detenue had taken a job in a company at the advise of his mother. Therefore, it is a whole case projected by the respondent Police that, it is a drama as if enacted by all these three people ie., the detenue, petitioner, who is the sister of the detenue as well as their mother.



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3. However, the learned counsel for the petitioner would submit that, the detinue has been in the custody of the respondents 3 and 4. Therefore, the detinue must be produced before this Court as the respondents 3 and 4 by taking the custody of the detinue created some forged documents to grab the property belongs to all of them. Therefore, in order to thwart such attempt though a complaint has been given to the concerned Police either that has not been enquired in proper perspective or they have closed it by filing final report before the concerned Court. Therefore, no progress since has been made in the said complaint made by the petitioner, the last asylum, according to the learned counsel for the petitioner, is that to approach this Court by filing this Habeas Corpus Petition seeking to produce the body or person of the detinue.

4. We have considered all these submissions made on either side and have given our anxious consideration, especially, in the context of the averments made in the report submitted by the 2nd respondent today.



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5.If at all the respondents 3 and 4 joined together with the detainee or taking the custody of the detainee started to commit some fraud to grab the property belongs to all the three people, it is a crime within the meaning of provisions of Indian Penal Code, for which the complaint can be given to the Police and if the Police has not taken proper steps to investigate the matter, other legal remedies are available in the Criminal Procedure Code, which the petitioner is very well aware without which or inspite of the same, the approach on the part of the petitioner to move this Habeas Corpus Petition as if that the detainee, who is none other than the brother of the petitioner has been in illegal custody allegedly at the hands of the respondents 3 and 4 had no strong basis, in view of the report now has been filed by the 2nd respondent after thorough investigation, where the 2nd respondent has given a detail about the letter of the detainee written on 18.05.2023. Therefore, all these factors disclose that, it is not the case of illegal custody on the part of the detainee at the hands of the respondents 3 and 4 or anyone else. Therefore, the question of issuing any direction by way of Habeas Corpus Petition to produce the body or person of the detainee does not arise in this case.



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6.If at all the remedy is to be made available for the alleged trouble faced by the petitioner as projected by the learned counsel for the petitioner, the remedy is elsewhere and not before this Court under Article 226 of Constitution of India. Therefore, for these reasons, we are satisfied that this Habeas Corpus Petition can be closed with the aforestated, accordingly, it is closed.

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

12.06.2023

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

MYR

To

1.The Commissioner of Police,
Commissioner of Police,
Madurai City.

2.The Inspector of Police,
Thallakulam Police Station,
(Law and Order), Madurai – 2.

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



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