



H.C.P.(MD) No.505 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 02.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

AND

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

H.C.P.(MD)No.505 of 2023

K.Homathi

... Petitioner / Wife of the Detenue

Vs.

1.The Superintendent of Police,
Dindigul.

2.The Inspector of Police,
Taluka Police Station,
Dindigul.

...Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, directing the respondents to produce the body or person of the petitioner's husband, namely, Karunanidhi, S/o.Karumanan, aged above 56 years, before this Court and set him at liberty.

For Petitioner : Mr.G.Kalidasan

For Respondents : Mr.RMS.Sethuraman,

Additional Public Prosecutor



WEB COPY



H.C.P.(MD) No.505 of 2023

ORDER

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

The petitioner, seeking production of her husband, namely, Karunanidhi, aged above 56 years, has filed this Habeas Corpus Petition.

2.When this Habeas Corpus Petition came up for hearing on 25.04.2023, we passed the following order:-

“Mr.RMS.Sethuraman, learned Additional Public Prosecutor, who takes notice on behalf of the respondents, submits that the detainee is no more and in order to support his contention, he has produced some photographs as if that the detainee already died and the case in this regard pending before the concerned Police was closed as the detainee died.

2.However, Ms.K.Kana Mayil, learned counsel appearing on behalf of the petitioner vehemently contended that the detainee is still alive and she has not believed the photographs filed by the respondent Police.

3.Therefore, in order to resolve the issue, we feel that let the respondent Police file a detailed counter and based on which, further course of action can be decided, for which, the learned Additional Public Prosecutor for the respondents seeks time.”



H.C.P.(MD) No.505 of 2023

WEB COPY

3.Pursuant to which when this Habeas Corpus Petition is taken up for hearing today, the 2nd respondent has filed counter affidavit, where he has stated the following:-

“3.I submit that thereafter, Karunanidhi and the petitioner due to difference separated and the petitioner filed divorce petition and maintenance before the Dindigul Family Court in M.C.No.34 of 2018, and he was ordered on 09.12.2021 to pay maintenance to the petitioner. He failed to pay the said amount, and hence a warrant was issued against him. The said Karunanidhi was arrested on 09.12.2021 and lodged at Madurai Central Prison until 08.01.2022. After one month of imprisonment, the said Karunanidhi was granted bail and released on 08.01.2022. He returned to his first wife and started residing with his family and did not return to the petitioner. In relation to the maintenance case, the petitioner had been consistently petitioning the police and Courts on the same. Due to the harassment caused by the petitioner, the said Karunanidhi was depressed and took to drinking alcohol and confessed to his wife Karuppathhal. Due to depression, the said Karunanidhi became a drunkard and used to sleep in his car and return home after becoming sober. On 13.01.2022, the said Karunanidhi left the house and did not return until 14.01.2022. The said Karuppathhal



H.C.P.(MD) No.505 of 2023

and his family searched for him, when they found the said Karunanidhi found him motionless in the car in their area. They immediately took him to Karur Government Hospital, where he was declared dead. The said Karuppathhal immediately went to Police Station and lodged a complaint on 14.01.2022 against the petitioner herein, claiming that her continuous harassment and mental torture has resulted in the death of the said Karunanidhi. The same was numbered as Crime No.36 of 2022 u/s.174 of Cr.P.C.

4.I submit that thereafter, the postmortem was conducted for the said Karunanidhi and they body was handed over to the said Karuppathhal, where he was duly handled as per the customs. The petitioner on knowing about the same, lodged a police complaint on 31.03.2022 that from 25.03.2022 12.25 p.m., onwards her husband is missing. The same was numbered Crime No.295/2022 as “Man Missing”. The Police team from Dindigul Taluk Police Station enquired and found that the petitioner was deliberated lying about her husband missing from 25.03.2022, despite being aware that he had expired in January, 2022 itself. Hence, the Karur Town Police Station had also enquired about the death of Karunanidhi on 30.01.2022 and had found no foul play in the same. The final report was filed as “Action Dropped”. The death certificate of Karunanidhi was also forwarded to the Dindigul Police Station, who concluded that the petitioner



WEB COPY



H.C.P.(MD) No.505 of 2023

was lying and had concealed facts, and thus the case was closed as Mistake of Fact.”

4.Relying upon these averments, the learned Additional Public Prosecutor for the respondents would submit that the detainee already expired and postmortem report has also been given by the hospital, where postmortem was taken place and the body was handed over to other wife, namely, Karuppathhal, who claimed to have performed last rites. Therefore, the question of producing the detainee before this Court does not arise at all, he contended.

5.In view of the said report filed by the respondent police having recorded the same, we are inclined to close this Habeas Corpus Petition, accordingly, it is closed.

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

02.06.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

MYR

5/6



WEB COPY



H.C.P.(MD) No.505 of 2023

R.SURESH KUMAR, J.

AND

K.K.RAMAKRISHNAN, J.

MYR

To

1.The Superintendent of Police,
Dindigul.

2.The Inspector of Police,
Taluka Police Station,
Dindigul.

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

H.C.P.(MD)No.505 of 2023

02.06.2023