



H.C.P.(MD) No.498 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 24.04.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

AND

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

H.C.P.(MD)No.498 of 2023

Anushya

... Petitioner / Daughter of the Detenue

Vs.

1.The Superintendent of Police,
Thoothukudi District, Thoothukudi.

2.The Inspector of Police,
Sawyerpuram Police Station,
Thoothukudi District.

3.Ezhilrani

...Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, directing the respondents 1 and 2 to produce the body or person of the petitioner's father, namely, Rathina Kumar, aged



H.C.P.(MD) No.498 of 2023

about 58 years, S/o.Madasamy from the illegal custody of the 3rd respondent before this Court and set him at liberty.

For Petitioner : Mr.M.Manokumar
For R1 and R2 : Mr.RMS.Sethuraman,
Additional Public Prosecutor

ORDER

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

The petitioner, seeking production of her father, namely, Rathina Kumar, aged about 58 years, has filed this Habeas Corpus Petition.

2.The petitioner claimed to be the daughter of the detinue and she filed this Habeas Corpus Petition impleading the 3rd respondent, who is none other than the wife of the detinue that means mother of the petitioner.

3.It is a strong allegation made by the petitioner that her father ie., the detinue had been illegally detained by her mother ie., the 3rd respondent.

4.The reason being for making such allegation, according to the learned counsel for the petitioner, is that there had been divorce petition



H.C.P.(MD) No.498 of 2023

filed between the detinue and the 3rd respondent, which is pending.

Therefore, the petitioner made an allegation against the 3rd respondent, who is none other than the mother of the petitioner, alleging that the 3rd respondent / mother illegally detained the detinue ie., the father of the petitioner.

5.This kind of allegation itself is absolutely not worthy to be considered.

6.Be that as it may, now, it has been revealed by the learned Additional Public Prosecutor for the official respondents that on 23.04.2023 a statement had been given by the petitioner before the 2nd respondent Police Station, stating that the detinue had not been in the illegal custody of the 3rd respondent, but he had been at Rehabilitation Centre from where he had been brought by the concerned Police and the petitioner had also taken back the detinue. Therefore, she had given the said statement not to take any action on the complaint given by the petitioner.



H.C.P.(MD) No.498 of 2023

WEB COPY

7. Without even disclosing these factors, the learned counsel argued that the 3rd respondent, since because of the strained relationship as divorce petition already filed between them, had abducted or kept the detinue in illegal custody.

8. Assuming that there is a divorce petition unless the divorce is granted by the competent Court, the subsisting relationship between them is husband and wife. Therefore, assuming that he is at the custody of the 3rd respondent, it is nothing but the husband is going to the wife's house or wife's place or vice versa. When that being the position, the petitioner absolutely has no *locus standi* to file this kind of Habeas Corpus Petition.

9. The stand taken by the petitioner has been completely disproved by the fact as discussed herein above. Therefore, this kind of filing of Habeas Corpus Petition hastily without verifying the facts and without even disclosing the facts correctly either before the Police or before this Court would be construed only as abuse of process of law as by virtue of these kind of litigation considerable judicial time of this Court is getting wasted.



H.C.P.(MD) No.498 of 2023

WEB COPY

10. Therefore, while dismissing this Habeas Corpus Petition by recording the aforestated, we are inclined to impose cost of Rs.10,000/- (Rupees Ten Thousand Only) on the petitioner. It should be paid by her within a period of two weeks from the date of receipt of a copy of this order before the High Court Legal Services Authority attached with this Bench. Accordingly, this Habeas Corpus Petition stands dismissed.

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

24.04.2023

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

To

1. The Superintendent of Police,
Thoothukudi District, Thoothukudi.

2. The Inspector of Police,
Sawyerpuram Police Station,
Thoothukudi District.

5/6



WEB COPY



H.C.P.(MD) No.498 of 2023

R.SURESH KUMAR, J.

AND

K.K.RAMAKRISHNAN, J.

MYR

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

H.C.P.(MD)No.498 of 2023

24.04.2023