



HCP.No.234 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.02.2024

CORAM :

THE HONOURABLE MR. JUSTICE M.S. RAMESH
AND
THE HONOURABLE MR. JUSTICE SUNDER MOHAN

H.C.P.No.234 of 2024

Bharathi Devi

... Petitioner

Vs.

- 1.The Commissioner of Police,
Tambaram,
Tamil Nadu – 600 119.
- 2.The Inspector of Police,
T-15, Kannagi Nagar Police Station,
Okkiyam Thoraipakkam Kannagi Nagar,
Chennai – 600 097.
- 3.Mrs.V.Padmini
- 4.Duke Talomy (Shadithya Health Care),
No.7, Tannery Street,
Pallavaram, Chennai,
Tamil Nadu – 600 043.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to
issue a Writ of Habeas Corpus, directing the second respondent to produce



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petitioner's brother Venkatesan aged about 64 years before this Court from the illegal custody of third respondent and fourth respondent and set her liberty.

For Petitioner : Mr.K.Raghuraman
For R1 & R2 : Mr.E.Raj Thilak,
Additional Public Prosecutor
For R3 : Mr.G.Peranban

ORDER

*(Order of the Court was delivered by **M.S.RAMESH, J.**)*

Seeking for the same relief as sought for in the present petition, against the same respondents, through the same counsel on record for the present HCP, the petitioner had earlier filed H.C.P.No.2201 of 2023 and by an order dated 12.12.2023, the same came to be dismissed on merits by holding that the Habeas Corpus Petition is not maintainable since the detenu was not in illegal custody. The said order reads as follows:-

“H.C.P.No.2201 of 2023

Bharathi Devi

... Petitioner

Vs.

*1.The Commissioner of Police,
Tambaram
Tamilnadu – 600 119.*



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2. *The Inspector of Police,
T- 15, Kannagi Nagar Police Station,
Okkiyam Thoraipakkam Kannaginagar,
Chennai – 600 097.*

3. *V.Padmini*

4. *Duke Talomy (Shadithya heath care) ...Respondents*

Prayer : Petition filed under Article 226 of the Constitution of India in the nature of Writ of Habeas Corpus, directing the second respondent to produce petitioner's brother Venkatesan aged about 64 years before this Court from the custody of third respondent and fourth respondent and set her liberty.

*For Petitioner : Mr. D.Kamesh
for M/s. K.Raghuraman
For Respondents : Mr.E.Raj Thilak
Additional Public Prosecutor
Assisted by Mr.C.Aravind
for R1 and R2
Mr.G.Peranban
for R3
No Appearance
for R4*

ORDER

(Order of the Court was delivered by S.S.SUNDAR,J.)

This Habeas Corpus petition has been filed directing the second respondent to produce petitioner's brother Venkatesan/detenu, aged about 64 years before this Court from the custody of third respondent and fourth respondent and to set her at liberty.



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2. *The learned Additional Public Prosecutor on instructions stated that the detenu is now in a De-addiction Centre, and it is also informed by the second respondent that the detenu is under the care of his own wife, who had admitted him in a De-addiction Centre to subject himself for a treatment.*

3. *Since the petitioner's grievance earlier was that the petitioner who is the sister of the detenu was not permitted to see her brother, this Court directed the second respondent to inform the fourth respondent that they will permit the petitioner to visit the detenu.*

4. *However, the learned counsel appearing for the petitioner has maintained that the petitioner was not allowed to visit the detenu.*

5. *Heard both sides.*

6. *In view of the fact that the detenu is now under the care and protection of his wife, we do not want to go into the details. Since the detenu is not in illegal custody, this Habeas Corpus Petition is liable to be dismissed.*

7. *Hence, this Habeas Corpus Petition is closed."*

2. No other averments except stating that the petitioner's brother is in illegal custody of the third respondent herein, who is the alleged



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detenu's wife, has been assigned in the affidavit filed in support of the present petition. When admittedly, the petitioner's brother is living with his wife, it cannot be said that he is in illegal detention. Furthermore, having sought for the same prayer earlier and this Court had dismissed the same, this second Habeas Corpus Petition is also not maintainable. In this background, we are of the view that exemplary cost requires to be imposed in the instant case for abuse of process of law.

3. Accordingly, this Habeas Corpus Petition stands dismissed with a cost of Rs.10,000/- payable to the Tamil Nadu State Legal Services Authority.

[M.S.R., J]

[S.M., J]

12.02.2024

Index: Yes/No

Internet: Yes/No

Neutral Citation: Yes/No

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M.S.RAMESH, J.
and
SUNDER MOHAN, J.

Sni

To

- 1.The Commissioner of Police,
Tambaram,
Tamil Nadu – 600 119.
- 2.The Inspector of Police,
T-15, Kannagi Nagar Police Station,
Okkiyam Thoraipakkam Kannagi Nagar,
Chennai – 600 097.
- 3.The Public Prosecutor,
High Court, Madras.

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