



H.C.P.(MD) No.505 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.04.2024

CORAM:

**THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA
and
THE HONOURABLE MR.JUSTICE K.RAJASEKAR**

H.C.P.(MD) No.505 of 2024

Nachiyar

... Petitioner

-vs-

1.The Superintendent of Police
Virudhunagar
Virudhunagar District

2.The Inspector of Police
South Police Station
Rajapalayam
Virudhunagar District

... 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 detenu / petitioner's husband by Jeevandha Murugan, son of Balasubramaniam, aged about 46 years, before this Court and set him at liberty.



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H.C.P.(MD) No.505 of 2024

For Petitioner : Mr.R.Niresh Kumar

For Respondents : Mr.RMS.Sethuraman
Additional Public Prosecutor

ORDER

[Order of the Court was made by A.D.JAGADISH CHANDIRA, J.]

The petitioner has filed this habeas corpus petition seeking a direction to the respondent – Police to secure her husband, namely, Jeevandha Murugan, son of Balasubramaniam, aged 46 years, produce him before this Court and set him at liberty.

2. It is the case of the petitioner that she was married to the detenu on 14.06.2012 and that the detenu had harassed and driven her out of the matrimonial home in the year 2014. She has been living separately for the past nine years. Since she was not able to maintain herself, she filed D.V.O.P.No.17 of 2021, before the Mahila Court, Theni. By order dated 12.08.2022 of the Mahila Court, the detenu was directed to pay a sum of Rs. 6,000/- to the petitioner towards monthly maintenance. Since the detenu did not pay the monthly maintenance, the petitioner had taken steps to attach the salary of the detenu and it was reported by the employer of the detenu that he



H.C.P.(MD) No.505 of 2024

was not attending the work and thereby, the Mahila Court, Theni, had issued a non-bailable warrant of arrest to the detenu. Since the detenu is not available, the petitioner is not able to serve the non-bailable warrant of arrest on the detenu. In such circumstances, the petitioner has filed this habeas corpus petition seeking a direction to the respondents to produce her husband.

3. Learned counsel for the petitioner would submit that the whereabouts of the petitioner's husband are not known.

4. Mr.RMS.Sethuraman, learned Additional Public Prosecutor, who takes notice for the respondents, on instructions, would submit that the detenu is none other than the husband of the petitioner. The petitioner and her husband have been living separately for the past nine years. The petitioner had filed D.V.O.P.No.17 of 2021, before the Mahila Court, Theni, wherein monthly maintenance was ordered in favour of the petitioner and since her husband had not paid the monthly maintenance to the petitioner and she is unable to execute the non-bailable warrant on him, she has filed this habeas corpus petition.



WEB COPY

H.C.P.(MD) No.505 of 2024

5. Heard the learned counsel on either side and perused the materials available on record.

6. On perusal of the papers shows that in the D.V.O.P.No.17 of 2021, the Mahila Court, Theni, had directed the detenu to pay a sum of Rs. 6,000/- towards monthly maintenance to the petitioner / wife. However, he did not pay the maintenance amount as directed by the Mahila Court to the petitioner. Therefore, a non-bailable warrant came to be issued against him. In such circumstances, we find that in order to evade the non-bailable warrant, the petitioner's husband is absconding and he is not in illegal detention of anybody. It is to be noted that in order to execute the non-bailable warrant, the petitioner has made such a short circuit method, by invoking the powers of this Court under Article 226 of the Constitution of India. We deprecate the conduct of the petitioner indulging in such a practice. Though we deem it fit to dismiss this habeas corpus petition with costs, considering the fact that the petitioner is without maintenance, we are not inclined to impose cost on her.



WEB COPY



H.C.P.(MD) No.505 of 2024

7. Accordingly, the habeas corpus petition is dismissed.

[A.D.J.C., J.]

[K.R.S., J.]

24.04.2024

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

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To:

- 1.The Superintendent of Police,
Virudhunagar,
Virudhunagar District.
- 2.The Inspector of Police
South Police Station
Rajapalayam, Virudhunagar District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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H.C.P.(MD) No.505 of 2024

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H.C.P.(MD) No.505 of 2024

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