



H.C.P(MD)No.1043 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.09.2024

CORAM:

**THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN
AND
THE HON'BLE MR.JUSTICE J.SATHYA NARAYANA PRASAD**

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A.Vasantha

... Petitioner / mother of the detenu

Vs.

1.The District Collector,
O/o. District Collector,
Thoothukudi District.

2.The Superintendent of Police
O/o.Superintendent of Police,
Thoothukudi District.

3.The Deputy Superintendent of Police,
O/o.Deputy Superintendent of Police,
Kovilpatti,
Thoothukudi District.



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4. The Inspector of Police,
East Police Station,
Kovilpatti,
Thoothukudi District.

5.Nallathambi

6.Dhanabal

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for the issue of a Writ of Habeas Corpus, directing the Respondents 2 to 4 to produce the person or body of the detenu, namely, Ayyanar, son of Late.Arumugasamy, aged about 27 years, before this Court and set the detenu at liberty.

For Petitioner : Mr.Vanchinathan

For Respondents : Mr.T.Senthil Kumar - for R1 to R4

Additional Public Prosecutor

Mr.D.Malaichamy – for R5

ORDER

The Habeas Corpus Petition has been filed seeking a direction against the respondents 2 to 4, the Superintendent of Police,



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Thoothukudi District, the Deputy Superintendent of Police, Kovilpatti in Thoothukudi District and also the Inspector of Police, East Police Station, Kovilpatti in Thoothukudi District, to produce the son of the petitioner, Ayyanar, aged about 27 years and to set him at liberty.

2. There are also other respondents in the Habeas Corpus Petition, namely, Nallathambi and Dhanapal. It had been contended that they were carrying on Sweet and Savoury shop at Gujarat and had taken away the son of the petitioner as bonded labour and that from the time he had gone over to their shop, he had not given any further information. As a matter of fact, in the affidavit filed in support of the Habeas Corpus Petition, the petitioner had stated that her son had called her on 13.03.2023 from a Mobile No.63594 42470 and had given information about the Sweet Shop where he is working at Gujarat State under the respondents 5 and 6, namely, Nallathambi and Dhanabal. It had been also stated that though he had been promised monthly salary which was paid initially, within a few months, the salary discontinued and not paid, and the son was treated as a bonded labour. It was also stated that he was abused and physically threatened and not permitted to go out anywhere. It was also stated that the petitioner had given a complaint on 14.03.2023



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in this regard, but effective steps were not taken by the respondent Police. In the affidavit, it had been further stated that on 30.07.2024 at around 02.00 a.m., her son again called her, complaining that he is forced to work till early in the morning and that, he does not actually know the place where he is residing. He had however, given two mobile numbers, one of Nallathambi-Phone No.98980 04339 and the other of Dhanapal 97256 98968. The petitioner stated that she again gave a complaint to the respondents, but since, again there was no effective response, raising a grievance whether her son was safe or not, the Habeas Corpus Petition had been filed.

3. The petition came up for consideration on 27.08.2024 and on that date, the son of the petitioner had been produced. Mr.T.Senthil Kumar, learned Additional Public Prosecutor had taken notice on behalf of the respondents 1 to 4. We had enquired with the son of the petitioner, Ayyanar. He had stated that he had been taken from his native place to Andhra Pradesh about 9 years back, when he was just 19 years and then taken to Gujarat. He stated that he never knew the exact place where he was kept in Gujarat. He also stated that the fifth respondent, Nallathambi was the owner of a Sweet /Savoury Shop called Deepa Sree Namkin at



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Gujarat. He was not clear about the address. He stated that he was promised wages of Rs.50/- per day, but that he had not seen the colour of the coin for the past 9 years. He was also not aware whether the salary had been transferred to his Bank account. He stated that he would be locked up in a room. He also stated that there are four other individuals from this State who are undergoing the same ordeal as he does in the said Sweet/Savoury shop. He had given the details about the said four individuals. We had noticed the names in the order, dated 27.08.2024 and we extract the same once again:

“(i) Saravanan, who is from Namakkal, aged about 28 years and who is working in that particular Sweet shop for the past 5 years;

(ii) Pandi, who had been taken to Gujarat State, even when he was a very young child and has been therefore over there for 15 years and he hails from Palani;

(iii) Ganesan, who is working in that shop for the past 7 years and aged about 31 years and hails from Sattur; and

(iv) Murugan, who has been working there for about one year and aged about 24 years and hails from Tirunelveli and who alone is granted permission to go to his native place and come back.”



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4. In view of these facts, we had passed an order that the District Collector of Thoothukudi District, should take personal interest in the entire issue and should file an affidavit about the steps taken to bring back the aforementioned individuals to this State. We had also placed a direction against the Superintendent of Police, Thoothukudi District, to depute a Special Team to Gujarat and secure all the named individuals. We had also stated that necessary investigation should be done whether the individuals were in Gujarat out of their own volition or were forced to stay there and treated as bonded labour. We had also placed a direction that the respondents should not interfere with the peace of the petitioner, A.Vasantha. We had also directed notice to the respondents 5 and 6. Even in that particular hearing, we came to know that the sixth respondent had been wrongly named as Dhanapal and that his actual name is Jeyapaul.

5. Today, Mr.T.Senthil Kumar, learned Additional Public Prosecutor informed that the four named individuals had been secured and that respondents 5 and 6 are also physically present in Court.



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6. A status report had been filed by the District Collector, Thoothukudi District, wherein, he had stated that the Assistant Commissioner of Labour (Enforcement), Thoothukudi, had given a report that compensation amount of Rs.30,000/- (Rupees Thirty Thousand only) would be paid, if it is established that Ayyanar was a bonded labour and had been actually released from bonded labour.

7. Even before proceeding further, we must place on record the statements made by the learned counsel for the petitioner who stated that the rehabilitation scheme has to be implemented and that compensation should be paid. But our focus is not on that, but rather in ensuring that the physical liberty of the son of the petitioner is made available and that the other four individuals are also, if detected to be in an unlawful custody, released from such custody. Issue of compensation is an issue of fact which will have to be determined only when it is established that the individuals were actually suffering as bonded labourers and had been released from bonded labour. That is an issue within the jurisdiction of the Assistant Commissioner of Labour (Enforcement), Thoothukudi.



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8. The District Collector, Thoothukudi District, had stated in paragraph Nos.5 and 6 of his affidavit as follows:

“5. I will scrutinize the reports of Revenue Divisional Officer, Kovilpatti and Deputy Superintendent of Police, Kovilpatti and will submit the detailed report that whether the above said petitioner's son Thiru. Ayyanar and four others are treated as bonded labourers or not on my final enquiry.

6. In the conclusion if any findings noticed as bonded labourers or treated as bonded labourer or any ill treatment towards the petitioner's son Thiru. Ayyanar and other four persons. The necessary steps will be taken to provide the above said compensation amount and also the basic requirements of the above four persons will be met out based on the eligibilities for betterment of their normal life.”

9. We are thus satisfied that if enquiry reveals that the son of the petitioner was actually kept as bonded labour which fact he has to establish, then he would be entitled for compensation. He cannot convert this Court as a place to make bountiful gain, but will have to establish the facts alleged by him.



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10. The Superintendent of Police of Thoothukudi District, the second respondent had filed a more detailed report/affidavit. In the affidavit, with respect to Ayyanar, the son of the petitioner, he had stated in paragraph No.10 as follows:

“10. It is humbly submitted that the Ayyanar has been working since 2015, and his monthly salary is Rs.8,100/-. After his expenses, the remaining salary of Rs.2,36,500/- was transferred on 27/08/2024 to the bank account of Ayyanar's mother Vasantha, bank account number 826110500004978 at Bank of India, Kamanaickanpatti branch. This information was confirmed through the bank details of Vasantha and the enquiry of Nallathambi.”

11. It is thus seen that the petitioner had actually monetarily gained by filing the present Habeas Corpus Petition.

12. With respect to other four individuals who had been named, it had been stated that a Special Team had been formed by the Superintendent of Police. They also made enquiries about the respondents 5 and 6 and stated that the fifth respondent, Nallathambi had



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begin his business in the year 1991 and since his marriage in the year 2000, his brother-in-laws, namely, Jeyabal and Jagatheesh along with their wives have been assisting him. He had stated that those who have come forward seeking work are provided with food, accommodation and salary which is credited to their Bank account. The salary is exclusive of food and shelter. He stated that they are not placed under any restraint whatsoever. It is stated that even cell phones are provided to them and that they would often go their native places and come back. It is also stated that they converse regularly with their family members. It is also stated that they can also go out for shopping and have access to food which they desire outside. It was also stated that the business is being managed at present in an effective manner without causing any harm to any of the employees.

13. In the report, the Superintendent of Police, further stated that on 02.09.2024, the Inspector of Police, Kovilpatti had visited the Village Administrative Officer in Anjar Taluka, Kutch District, Gujarat and in the presence of the Village Administrative Officer, he had conducted individual enquiries with each one of the four individuals, Murugan, Thangapandi, Saravanakumar and Ganesa Moorthy. They also



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noted down their addresses. Their statements were also recorded before the Village Administrative Officer. The statements have also been produced before this Court. None of them have stated that they were suffering a life of bonded labour. They were also produced before the Court.

14. In order to ascertain the actual facts, we had examined each one of them individually.

15. Murugan stated that he had gone over to Gujarat two years back and had come back to Tirunelveli and found that the economic status was very poor and therefore, he had taken a decision to go back to Gujarat for work. He stated that salary is paid to him, exclusive of food and shelter.

16. Ganesa Moorthy, who hails from Sattur Taluk, stated that he went to Gujarat about four years back and that his salary was about Rs.6,000/- to 7,000/-. He also stated that it ranges upto Rs.20,000/-, again exclusive of food and shelter.



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17. Thangapandi, from Palani Taluk stated that he also went over to Gujarat two years back, when he had a quarrel with his mother and had taken a decision to go away from his house. He was waiting in the bus stand and a person known to him had come over and he was taken to Gujarat. He stated that food and shelter are provided to him. He stated that the salary which he received is about Rs.3,000/-.

18. The fourth individual Saravanakumar, from Namakkal stated that he had gone over to Gujarat about two years back and that his salary was about Rs.13,500/- and that food and shelter are given to him, free of cost.

19. Though there is a variation in the amount of salary stated to be received by the said four individuals, they all stated that it is credited directly to their Bank accounts and therefore, they were not personally aware of the quantum of salary. We are confident that the District Collector would impress upon the respondents 5 and 6 that they should not keep anybody in forced labour in their shop.



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20. The learned counsel for the petitioner repeatedly stated that compensation should be granted for the sufferings of the son of the petitioner herein.

21. We have already indicated that grant of compensation is under the exclusive purview of the Assistant Commissioner of Labour (Enforcement), functioning under the District Collector at Thoothukudi District and it would require necessary enquiries to be made and statements to be proved and established. Compensation cannot be granted at the drop of a hat, particularly, since the son of the petitioner had given extremely contradictory statements when enquired before us which had forced to us to venture into the entire operation of securing all the four individuals and also the respondents 5 and 6 all the way from Gujarat to this place.

22. We can only express that had the petitioner been more truthful, the entire exercise would not have been undertaken by us. But unfortunately, he had given scant respect for stating the correct statements before the Court and even before us, when we personally enquired with him.



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23. In view of the fact that none of the four individuals are kept as bonded labourers, we would direct that the respondents are at liberty to take them back, if they so desire to go back to Gujarat for work.

24. We would place on record our deep appreciation to Thiru.K.Elambahavath, IAS, District Collector, Thoothukudi and Thiru.Albert John, IPS, the Superintendent of Police, Thoothukudi District, who had taken note of our order, dated 27.08.2024 in its true letter and spirit and had immediately complied with the directions issued therein. A Special Team and also the Inspector of Police, East Police Station, Kovilpatti had been deputed to go all the way to Gujarat, an unknown place. The learned Additional Public Prosecutor had also stated that the members of the team were also not treated properly at that particular place.

25. In the report, the Superintendent of Police, had also stated that an enquiry was also conducted by the Assistant Commissioner of Labour, Gandhidham Labour Office, Gujarat, consequent to a representation given on 03.09.2024. The Labour Inspector, Mr.H.M.Patel of Anjar Taluk had visited the shop on 04.09.2024 and had conducted an



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enquiry. The workers stated that they were working voluntarily at Anjar in Deepa Sree Cottage Industry.

26. Very unfortunately, owing to the wrong information given by the son of the petitioner, we had caused disturbances to a running concern at Gujarat. It would have been better that had the learned counsel for the petitioner obtained correct instructions before venturing into filing the Habeas Corpus Petition.

27. The learned counsel for the petitioner in response to the above statement stated that only after filing of the Habeas Corpus Petition was the salary being paid to the son of the petitioner. In effect, the relief sought by the petitioner had been granted to her and to that extent, the petitioner should be satisfied.

28. It is also brought to our knowledge by the learned Additional Public Prosecutor in the order dated 27.08.2024 that we had expressed displeasure at the presumed attitude of the District Collector, Thoothukudi District and Superintendent of Police, Thoothukudi District.



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29. In view of the narrations and the nature of orders passed now, we are confident that it would be now understood that in the course of this order, we had acknowledged the efforts taken by them to comply with the directions passed in our order, dated 27.08.2024. Any adverse remark need not be held against both the said officials ever in future, but rather the appreciation recorded by us in thus order today may be taken to their advantage.

30. Accordingly, the Habeas Corpus Petition stands closed.

(C.V.K., J.) (J.S.N.P., J.)
19.09.2024

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

RM



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To
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- 1.The District Collector,
O/o. District Collector,
Thoothukudi District.
- 2.The Superintendent of Police
O/o.Superintendent of Police,
Thoothukudi District.
- 3.The Deputy Superintendent of Police,
O/o.Deputy Superintendent of Police,
Kovilpatti,
Thoothukudi District.
4. The Inspector of Police,
East Police Station,
Kovilpatti,
Thoothukudi District.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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C.V.KARTHIKEYAN, J.
AND
J.SATHYA NARAYANA PRASAD, J.

RM

ORDER MADE IN
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