



H.C.P.(MD) No.1622 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.04.2024

CORAM:

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

H.C.P.(MD) No.1622 of 2023

C.Somuraj

... Petitioner

-VS-

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

2.The Inspector of Police,
Srivaikundam Circle,
Thoothukudi District.

3.The Sub-Inspector of Police,
Serakulam Police Station,
Srivaikundam Circle,
Thoothukudi District.

... Respondents



H.C.P.(MD) No.1622 of 2023

WEB COPY

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of habeas corpus directing the second respondent to produce the person or body of the detenues, (i) the petitioner's wife namely Krishnaveni, W/o.C.Somuraj, aged 36 (ii) the petitioner's three minor children namely Shoshana Miracle, D/o.C.Somuraj (aged 8 years), Paulina Blessey, D/o.C.Somuraj (aged 4 years) and Calvin Wycliffe, S/o.C.Somuraj (aged 4 years) and set them at liberty.

For Petitioner : Mr.M.Solaisamy
For Respondents : Mr.RMS.Sethuraman
Additional Public Prosecutor
For R4/
impleading petitioner:Mr.V.Angusamy

ORDER

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

This Habeas Corpus Petition has been filed by the husband of the first detainee seeking to produce the alleged detainees namely Krishnaveni, W/o.C.Somuraj, aged 36, Shoshana Miracle, D/o.C.Somuraj (aged 8 years), Paulina Blessey, D/o.C.Somuraj (aged 4 years) and Calvin Wycliffe, S/o.C.Somuraj (aged 4 years) before this Court.



H.C.P.(MD) No.1622 of 2023

WEB COPY

2. The case of the petitioner is that the petitioner got married with one Krishnaveni, D/o.T.Rajamani on 10.03.2014. Due to the wedlock, they are blessed with three children, namely Shoshana Miracle (aged 8 years), Paulina Blessey (aged 4 years) and Calvin Wycliffe (aged 4 years). After the marriage, due to the nature of work, they were residing at Motihari District in Bihar State. Subsequently, due to frequent quarrel, the petitioner had taken the children and came back to Tamil Nadu. Therefore, his wife/ the first detenu had filed H.C.P.No.1443 of 2021 before the Madras High Court, Chennai seeking production of her children. On hearing of the petition before the Court, they were referred to Mediation and Conciliation Centre and the Mediation was conducted by the District Legal Services Authority, Tirunelveli. Based on the order passed by the Mediation Centre, Medical counseling was also provided to the wife of the petitioner and thereafter, a joint compromise was effected on 14.12.2021. Based on the joint compromise memo filed by both parties, H.C.P.No.1443 of 2021 was closed and therefore, they were lived together. Thereafter, the wife of the petitioner was living with her parents and after sometime, his wife and her parents have prevented the petitioner from seeing his children. The petitioner had given a complaint to the third respondent, however, no action has been taken by the



H.C.P.(MD) No.1622 of 2023

WEB COPY

respondent police. While so, the petitioner had seen his wife in front of Glorindha School. The petitioner had approached his wife with a request to lead the matrimonial life at Sivakasi with the children, whereas she had created an unwarranted situation stating that she did not want to live with him and that she was staying with her parents at Mallalpudhukulam. The petitioner went to the detenu's parental home, but his wife and his three minor children were not found there. Therefore, he has given a complaint before the respondent police on 06.12.2023 to find out the whereabouts of his wife and three children. Since the respondents have not taken any action, the petitioner has filed the present petition.

3. Today, when the matter is taken up for hearing, the learned Additional Public Prosecutor appearing for the respondents would submit that earlier the petitioner has left the home with his minor children and hence, the petitioner's wife filed a H.C.P.No.1443 of 2021. Thereafter, the detenues were produced before the Court. A joint compromise memo was effected between the petitioner and his wife on 14.12.2021. Based on the joint compromise memo, the said habeas corpus petition was closed. Later, the petitioner's wife and the



H.C.P.(MD) No.1622 of 2023

WEB CUPM

children were not found and hence, the petitioner has given a complaint on 06.12.2023. Based on the complaint, the respondent police has traced the detenu and her minor children and produced before this Court.

4. The first detenu Krishnaveni and three children were produced before this Court and this Court interacted with her. She submitted that due to the harassment of the petitioner her husband, she along with children had left the matrimonial home living separately and she is not under illegal custody of anybody and only in order to protect herself and her children from the harassment of the husband, she is living separately along with children. Father of the Krishnaveni was also heard. He submitted that due to continuous harassment of the petitioner, his daughter and her children were living separately and if his daughter is willing to come along with the children, he is ready to take care of them.

5. From interaction, we find that the petitioner's wife/first detenu and their children are not in illegal custody of anybody and that due to matrimonial discord she had on her own left the matrimonial home. Considering the limited



H.C.P.(MD) No.1622 of 2023

scope of the petition, this Habeas Corpus Petition is closed. However, liberty is given to the petitioner to approach the appropriate forum seeking custody of the minor children. The second respondent is directed to enquire the first detainee and to record her statement with regard to the place where the children are accommodated.

[A.D.J.C., J.] [K.R.S., J.]
16.04.2024

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

To:

- 1.The Superintendent of Police,
Thoothukudi,
Thoothukudi District.
- 2.The Inspector of Police,
Srivaikundam Circle,
Thoothukudi District.
- 3.The Sub-Inspector of Police,
Serakulam Police Station,
Srivaikundam Circle,
Thoothukudi District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



H.C.P.(MD) No.1622 of 2023

A.D.JAGADISH CHANDIRA, J.
AND
K.RAJASEKAR, J.

am

H.C.P.(MD) No.1622 of 2023

16.04.2024