

Balakumar Vs. The Superintendent of Police, Trichy District, Trichy and Others

Balakumar Vs. The Superintendent of Police, Trichy District, Trichy and Others

SooperKanoon Citation : sooperkanoon.com/1187643

Court : Chennai Madurai

Decided On : Oct-24-2016

Judge : S. Nagamuthu & M.V. Muralidaran

Appeal No. : H.C.P.(MD)No. 1375 of 2016

Appellant : Balakumar

Respondent : The Superintendent of Police, Trichy District, Trichy and Others

Judgement :

(Prayer: Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Habeas Corpus, directing the respondents 1 and 2 to produce the person or body of Suganthi, aged about 27 years, wife of the petitioner from the illegal custody of the respondents 3 and 4 before this Court and set her at liberty.)

S. Nagamuthu, J.

1. The petitioner has come up with this Habeas Corpus Petition alleging that his wife Suganthi, aged about 27 years, has been abducted by the respondents 3 and 4, who are her parents and kept in illegal custody by them.

2. In the affidavit filed in support of the petition, the petitioner has stated that as arranged by the elders, his marriage with Suganthi was celebrated on 15.09.2016. It is further stated in the affidavit that on the same day of the marriage, the respondents 3 and 4 and their relatives came to the Marriage Hall, where the marriage was celebrated, abused the petitioner in filthy language and by force, abducted Ms.Suganthi. He has further stated that thereafter, he went to the second respondent and lodged a complaint in person. But, according to him, no action whatsoever was taken by the police. He has further stated that when he went to the respondents 3 and 4, they demanded a sum of Rs.10,00,000/- from him and obtained a sum of Rs.2,50,000/- from him. He has further alleged that the respondents 3 and 4 are making arrangement for second marriage for Suganthi. In crux, his allegation is that against her wish, she has been illegally detained by the respondents 3 and 4. With these allegations, he has come up with this Habeas Corpus Petition.

3. Today, when the Habeas Corpus Petition was taken up for hearing, the respondents 3 and 4 appeared along with the detenu Suganthi. They were represented by Mr.B.Vinothkumar, learned counsel. When we enquired, the detenu told us that it is true that as arranged by the elders, the marriage was celebrated in R.K.N.Marriage Hall on 15.09.2016. She further told that as soon as the marriage was over, one girl, by name Nirmala Devi came to the Marriage Hall and created ruckus in the Marriage Hall and alleged that the petitioner had cheated her after having lived with her for about two years. Because the petitioner had affair with the said girl and there was some dispute between him and Nirmala Devi, the detenu decided not to live with him as his wife and to terminate the marital relationship. So, according to her, right from Marriage Hall, she went along with her parents, namely the respondents 3 and 4 and the other relatives and from that day onwards, she has been living only with the respondents 3 and 4 at their house. She further told us that she was not at all abducted by the respondents 3 and 4, as it is alleged in the affidavit filed by the petitioner.

4. The respondents 3 and 4 also repeated the same statement as what was said by the detenu before us.

5. The learned counsel for the petitioner submitted that the detenu had been tutored to say so. Therefore, we enquired the petitioner in person. The petitioner virtually admitted every fact spoken by the detenu. He told us that it is true that as soon as the marriage was over, one Nirmala Devi came and created ruckus in the Marriage Hall abusing him. He further admitted that he had affair with her for about two years and, therefore, she came and disturbed the marriage. He further told us that as soon as the marriage was over, Suganthi went along with her parents and other relatives. He has further stated that he was aware of the fact that all along she was only with her parents. He further told that few days after the marriage, the respondents 3 and 4, under threat and coercion, received a sum of Rs.2,50,000/- from him. His further contention is that he is willing to live with Suganthi.

6. We have considered all the above submissions.

7. From the undisputed facts narrated before us, it is crystal clear that there was marriage on 15.09.2016 between the petitioner and Suganthi, as arranged by the elders. It is also crystal clear that as soon as the marriage was over, in the Marriage Hall itself, one Nirmala Devi came and created ruckus challenging the validity of the marriage between the petitioner and Suganthi. It was because of the said reason, the detenu had gone along with the respondents 3 and 4, namely, her parents and she has been living with them. It is also brought to our notice that Suganthi has filed a petition for dissolution of marriage before the Civil Court. From the above facts, it is crystal clear that there is neither abduction nor illegal detention of Suganthi by the respondents 3 and 4. It is also seen from the records that a complaint was made by the petitioner to the police only on 07.10.2016 and immediately thereafter, that was, on 13.10.2016, he has come up with this Habeas Corpus Petition.

8. In our considered view, since, we have found that there is no illegal detention, the relief sought for by the petitioner cannot be granted. At the same time, it is crystal clear that the petitioner has abused the process of this Court as well as the police. The very fact that he made a complaint after 22 days of the occurrence and the very fact that immediately thereafter, he has come to this Court and also the further fact that he has completely suppressed the happenings in the Marriage Hall

on 15.09.2016, would all go to prove that the petitioner has clearly abused the process of this Court and wasted the time of this Court instead of working out his remedy before the competent forum.

9. In such view of the matter, while dismissing the Writ Petition, we are forced to impose a cost on the petitioner. When we afford an opportunity to the petitioner to make a submission about the cost, he himself volunteered to pay a sum of Rs.10,000/- (Rupees Ten Thousand only) as cost. The same is recorded.

10. In view of the above, the Habeas Corpus Petition is dismissed with cost of Rs.10,000/- (Rupees Ten Thousand only) to be paid by the petitioner, by means of a demand draft drawn in the name of the Registrar (Administration) of this Court and the said amount shall be spent by the Registrar (Administration) to purchase necessary medical equipments for the dispensary, attached to this Court. The cost shall be paid, on or before 01.11.2016. It is made clear that the petitioner is at liberty to work out his remedy before the competent Civil Court.

11. Post the matter on 02.11.2016 'for reporting compliance'.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com