



HCP(MD)No.1515 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 07.12.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.SUNDAR

and

THE HONOURABLE MR.JUSTICE R.SAKTHIVEL

H.C.P.(MD)No.1515 of 2023

L.Rajamanickam

: Petitioner

Vs.

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

2.The Sub Inspector of Police,
Allanganallur Police Station,
Madurai District.
(Crime No.449/2023).

3.Muniyandi

: Respondents

[R3 amended as per order of the Court dated 06.12.2023]



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PRAYER: Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus, directing the respondents 1 and 2 herein to produce the detenu's body or person of petitioner's wife Rajathi, aged 29 years, son Sudarsan aged 8 years and daughter Niranjana aged 4 years, respectively from the illegal custody of the third respondent herein before this Court and set them at liberty.

For Petitioner : Mr.V.S.Kumara Guru
For Respondents 1&2 : Mr.R.Meenakshi Sundaram
Additional Public Prosecutor
For Respondent No.3 : Mr.K.N.Gurusamy

O R D E R

[Order of the Court was made by **M.SUNDAR, J.**]

When the captioned matter was listed in the admission board yesterday [06.12.2023], the following order was made:

'H.C.P.(MD)No.1515 of 2023

M.SUNDAR, J.

and

R.SAKTHIVEL, J.

O R D E R

[Order of this Court was made by M.SUNDAR, J.]

Captioned 'Habeas Corpus Petition' [hereinafter 'HCP' for the sake of brevity] has been filed in this Court on 30.11.2023.



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2.Factual matrix in a nutshell is that the HCP petitioner married one 'Rajathi' ['Rajathi' shall hereinafter be referred to as 'wife absentee' for the sake of convenience] on 29.06.2014; that from this wedlock, there are two children ie., 8 year old 'XXX' ['XXX' shall be referred to as 'son absentee'] and 4 year old 'YYY' ['YYY' shall be referred to as 'daughter absentee'] [to be noted, 'wife absentee, son absentee and daughter absentee' shall be collectively referred to as 'absentees' for the sake of convenience]; that according to HCP petitioner the absentees are missing from 07.11.2023; that it is the case of the HCP petitioner that the wife absentee along with son absentee and daughter absentee left for Madurai to visit hospital for treatment in a TVS Jupiter two wheeler but did not return; that HCP petitioner has lodged a police complaint on 08.11.2023 with Alanganallur Police Station; that FIR Crime No.449 of 2023 dated 08.11.2023 for women missing, boy missing and girl missing was registered; that this was followed up with representation; that fearing illegal detention / unlawful custody of absentees by third respondent, captioned HCP has been filed; that it is to be noted that third respondent has been described as Ganeshan, S/o. Muniyandi but Mr.V.S.Kumara Guru, learned Counsel for HCP petitioner submits that it is Muniyandi, S/o. Ganeshan and learned Counsel regrets for this inconvenience; that this Court shall now read third respondent as Thiru.Muniyandi, S/o. Ganeshan.

3.Issue notice to respondents.

4.Mr.R.Meenakshi Sundaram, learned State Additional Public Prosecutor accepts notice for official respondents [respondents 1 and 2].



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5.Learned Prosecutor on instructions [instructed by Ms.A.Jayalakshmi, Women Special Sub-Inspector of Police, Alanganallur] submits that the absentees have been located and they have been brought to Court. This Court had a brief interaction with the wife absentee. At the moment ie., at this juncture this Court refrains from recording what the wife absentee had to say. However, it will suffice to say that it is necessary that third respondent is also before this Court. To be noted, learned Prosecutor submits on instructions that the absentees were located in Coimbatore. Learned Prosecutor also submits that Ganeshan father of third absentee has lodged a complaint with Sellur Police Station saying that Muniyandi is missing and CSR No.909 of 2023 dated 20.11.2023 has been issued for the same.

6.As regards third respondent, let notice be served on third respondent through the police and let the third respondent also be presented in this Court tomorrow. To be noted, we are referring to the third respondent as Muniyandi, S/o.Ganeshan and it has become necessary to set out again owing to the careless error in the drafting of the cause title. It is also made clear that Muniyandi need not be secured by the police, it will suffice if notice is served and he is brought to this Court tomorrow. To be noted, the petitioner as well as the wife absentee's mother are also present in Court but for the present, owing to what the wife absentee had to say and considering her preferences, let the absentees (wife absentee, son absentee and daughter absentee) be lodged in a Home between today and tomorrow. The absentees [wife absentee, 8 year old son absentee and 4 year old daughter absentee] shall be lodged in a Home in Madurai ie., Office of One Stop Centre [Mrs.Amutha, The Administrator, Mob.No. 9150057404], Integrated Service Centre, Balarangapuram Government Hospital Complex, Balarangapuram, Madurai –



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625 009. Learned Prosecutor undertakes to ensure that they are safely lodged in the One Stop Centre between today and tomorrow.

*7.List tomorrow. List on **07.12.2023.**'*

2.The aforementioned admission board order shall now be read as an integral part and parcel of this final order. This means that the short forms, short references and abbreviations used in the admission board order shall continue to be used in the instant final order also.

3.Pursuant to aforementioned admission board order made yesterday, today the third respondent was present before us and the third respondent [Muniyandi son of Ganeshan] is represented by Mr.K.N.Gurusamy, learned Counsel [Enrl. No.931/99] with address of service at No.69, Law Chamber, District Court, Madurai – 20 [Mob. No.9843260434].

4.HCP petitioner, HCP petitioner's Counsel, learned State Prosecutor Mr.R.Meenakshi Sundaram, instructed by i) A.Jeyalakshmi, Special Sub-Inspector of Police, Alanganallur, ii) Ms.S.Vedhavalli, Inspector of Police, Sellur (Crime), iii) Mr.K.John, Sub-Inspector of Police, D2 Sellur Police Station, absentees and wife absentee's mother



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Ms.Vijaya, residing at Jayalakshmi Compound, Marthandam Kovil Street, Sinthamani, Madurai – 625 009 are all present in Court.

5.This Bench had multiple interactions with the petitioner, wife absentee, mother of wife absentee and third respondent. The following points emerges clearly:

i) Wife absentee along with son absentee and daughter absentee does not want to go with HCP petitioner but she wants to go with her mother and live with her mother in Sinthamani;

ii) Mother of wife absentee [maternal grandmother of son absentee and daughter absentee] submits that she will be a good care giver to the absentees and there will be no impediment for HCP petitioner visiting the absentees if so desired;

iii) Third respondent made it clear that he is not inclined to continue his friendship with the wife absentee;



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iv) Third respondent submitted that he would return the following:

a) A Lakh of rupees by cash which he owes to the wife absentee;

b) All the personal effects which are there in the Coimbatore house at No.5/6, Rathinapuri, Near Gandhipuram Bus Stand, Coimbatore.

c) The aforesaid one lakh rupees will include the advance given in the Coimbatore house as third respondent admits that he owes this money to the wife absentee;

d) TVS Jupiter two-wheeler belonging to wife absentee bearing registration No.TN 66 A 8942.

e) Wife absentee's three mobile phones together with 4 SIM cards.

6.The third respondent shall take the responsibility of receiving all personal effects from Coimbatore and handing over the same to the wife absentee.



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7.The aforementioned exercise of third respondent handing over what he owes to the wife absentee [Rajathi] shall be completed within one week from today and it will be in the presence of Inspector of Police and Sub-Inspector of Police in Sellur Police Station.

8.It is always open to the wife absentee to reunite with the HCP petitioner if there is change of heart in the days to come but we do not express any opinion on that. We make it clear that all the rights and contentions of the petitioner and / or anyone concerned in any connected / collateral proceedings in Family Court / GAWA Court or any Court/Courts/Forum/Fora/Authority/Authorities are preserved and such Court/Courts/Forum/Fora/Authority/Authorities shall deal with the matter on their own merits and in accordance with law if approached.

9.We make it clear that we have recorded what unfurled in the hearing today. The absentees will now go with wife absentee's mother for residing with her at Sinthamani for the present.



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10. Curtains are drawn on the captioned HCP. Captioned HCP is disposed of as closed albeit with the aforementioned observations capturing what transpired in the hearing today and preserving the rights in the aforesaid manner. There shall be no order as to costs.

[M.S.,J.] & [R.S.V.,J.]
07.12.2023

Index : Yes/No

Internet : Yes/No

Neutral Citation : Yes/No

MR

Post Script: Though disposed of, list 'FOR REPORTING COMPLIANCE' on 18.12.2023.



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To

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

2.The Sub Inspector of Police,
Allanganallur Police Station,
Madurai District.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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M.SUNDAR, J.
and
R.SAKTHIVEL, J.

MR

ORDER MADE IN
H.C.P.(MD)No.1515 of 2023

07.12.2023