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HCP No.163 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.02.2023

Coram

The Hon'ble Mr. Justice **M.SUNDAR**
and
The Hon'ble Mr. Justice **M.NIRMAL KUMAR**

H.C.P.No.163 of 2023

Mohanapriya

.. Petitioner

-VS-

1.The State Rep., by the
Superintendent of Police,
Mayiladuthurai District.

2.The Inspector of Police,
Sirkali Police Station,
Mayiladuthurai District.

3.The Foreign Regional Registration Officer,
Bureau of Immigration,
No.26, Haddows Road,
Shastri Bhavan Annexe, Chennai-600 006.
(R3 impleaded vide order dated
03.02.2023 in HCP No.163 of 2023)

.. Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus directing the respondents to produce the body of the petitioner's husband namely Nividith Rahul, S/o Sivakumar aged about 25 years before this Court and set him at liberty.



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For Petitioner : Mr.P.M.Kumaravel
For Respondents : Mr.R.Muniyapparaj
Addl. Public Prosecutor for R1 & R2
Mr.Rajesh Vivekanandan
Dy. Solicitor General for R3

ORDER

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

This order will now dispose of captioned 'Habeas Corpus Petition' (hereinafter 'HCP' for the sake of convenience and clarity).

2. This order has to be read in conjunction with and in continuation of earlier proceedings made by us in the previous listing on 03.02.2023 which reads as follows:

'Mr.V.Sakkarapani, learned counsel for petitioner is before us.

2. Learned counsel submits that captioned 'Habeas Corpus Petition' ['HCP'] has been filed seeking production of petitioner's husband Mr.Nividith Rahul (son of Sivakumar), aged about 25 years.

3. It is submitted that petitioner got married to Mr.Nividith Rahul on 08.02.2022. The petitioner and



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Mr.Nividith Rahul hail from different communities and different social backgrounds is learned counsel's say. On 23.09.2022, Mr.Nividith Rahul left for Chennai and thereafter, the petitioner did not hear from him. Therefore, on 02.10.2022, petitioner lodged a police complaint on the basis of which First Information Report (FIR) vide Crime No.452 of 2022 on the file of Sirkazhi Police Station, Mayiladuthurai District was registered. On 31.10.2022, the petitioner was blessed with a girl child born from her wedlock with Mr.Nividith Rahul when they lived in a marital tie between 08.02.2022 and 23.09.2022.

4. Mr.R.Muniyapparaj, learned Additional Public Prosecutor who accepted notice on behalf of Respondents 1 and 2 (instructed by Special Sub-Inspector of Police Mr. S.Senthil from Sirkazhi Police Station) is before us. On instruction, learned Additional Public Prosecutor submitted that based on the complaint, investigation was set in motion, it has come to light that Mr.Nividith Rahul has obtained a Passport on 30.12.2022 from Regional Passport Office, Trichy. To be noted, we had the benefit of perusing the 'Case Diary' (CD) vide FIR in Crime No.452 of 2022.



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5. *We are informed that there is a possibility of Mr.Nividith Rahul having flown out of the country. The Investigating Officer has already approached the Regional Passport Office, Trichy and obtained the Passport details of Mr.Nividith Rahul. Considering that the petitioner has been blessed with a girl child on 31.10.2022 and taking into account other peculiar facts and circumstances of this case, we deem it appropriate to implead Foreign Regional Registration Officer, Bureau of Immigration, No.26, Haddows Road, Shastri Bhavan Annexe, Chennai – 600 006 as third respondent. Mr.R.Rajesh Vivekanandan, learned Deputy Solicitor General, Madras High Court accepted notice on behalf of third respondent.*

6. *We request the learned Deputy Solicitor General, Madras High Court to get instructions as to whether any Visa has been issued to Mr.Nividith Rahul vide passport details (which form part of the CD file) and report to this Court.*

7. *The emigration and immigration details shall also be placed before us. Learned State Additional Public Prosecutor to appraise this Court about the procedure and police enquiry before issue of*



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Passport.

List on Tuesday. List on 07.02.2023.'

3. The aforesaid earlier proceedings is tell-tale qua factual matrix as well as the trajectory the matter has taken.

4. Today, Mr.P.M.Kumaravel, learned counsel for petitioner, Mr.R.Muniyapparaj, learned State Additional Public Prosecutor and Mr.Rajesh Vivekanandan, learned Deputy Solicitor General for third respondent are before us.

5. Pursuant to our earlier proceedings, learned Deputy Solicitor General has placed before us, typed set of papers dated 07.02.2023 wherein the travel details sought for have been made available. It comes to light that Nividith Rahul, S/o.Sivakumar has flown out of India from Trichy Airport on 23.09.2022. We are informed, on instructions, by learned Deputy Solicitor General that the destination of flight taken is Dubai.

6. In the light of the trajectory the matter has taken, as the



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petitioner says that she is married to Nividith Rahul, it is for her to workout her remedies in suitable forum and Fora / Court/s. Be that as it may the second respondent shall continue with investigation and carry it to its logical end.

7. Recording the aforesaid obtaining position, captioned HCP is disposed of as closed as there is no illegal detention. There shall be no order as to costs.

(M.S., J.) (M.N.K., J.)
15.02.2023

Index:Yes/No
Neutral Citation : Yes/No
mmi

To

- 1.The Superintendent of Police,
Mayiladuthurai District.
- 2.The Inspector of Police,
Sirkali Police Station,
Mayiladuthurai District.
- 3.The Foreign Regional Registration Officer,
Bureau of Immigration, No/26, Haddows Road,
Shastri Bhavan Annexe, Chennai-600 006.
- 4.The Public Prosecutor,
High Court, Madras.



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**M.SUNDAR, J.
and
M.NIRMAL KUMAR, J.**

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