



WEB COPY



H.C.P.No.166 of 2023

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.03.2023

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR

and

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

H.C.P.No.166 of 2023

S.Rajakumari
W/o.Shanmugam

... Petitioner/
mother of detenue

Vs.

1.The Superintendent of Police,
Ariyalur District,
Tamilnadu.

2.The Inspector of Police,
Andimadam Police Station,
Ariyalur District.

3.Suriya

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of habeas corpus directing the 1st and 2nd respondents to produce the petitioner's daughter, detenue S.Sandhiya (minor girl) 17 years, before this Court, who has been illegally detained by the 3rd respondent and hand over to the petitioner.

For Petitioner : Mr.E.Anbarasan



H.C.P.No.166 of 2023

For Respondents : Mr.R.Muniyapparaj
Additional Public Prosecutor
assisted by
Mr.M.Sylvester John

ORDER

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

This order will now dispose of the captioned 'Habeas Corpus Petition'
[hereinafter 'HCP' for the sake of brevity].

2. This order has to be read in conjunction with and in continuation of
earlier proceedings made in previous listings on 06.02.2023 and 20.02.2023,
which read as follows:

'Proceedings made on 06.02.2023

*'Captioned Habeas Corpus Petition has been filed
alleging that the petitioner's minor daughter one S.Sandhiya,
aged 17 years, is missing from 12.12.2022 (for the sake of
convenience, this minor daughter of the petitioner shall
hereinafter be referred to as 'detenue').*

*2.Mr.E.Anbarasan, learned counsel for petitioner
submits that it is suspected that the petitioner is in illegal
custody of the third respondent (private respondent). Learned
counsel also submits that a case has been registered on the file*



H.C.P.No.166 of 2023

WEB COPY

of the second respondent viz., Andimadam Police Station, Ariyalur District vide Crime No.400 of 2022. FIR placed before us shows that it is a 'girl missing' case.

3. Mr.R.Muniyapparaj, learned State Additional Public Prosecutor accepts notice for Respondents 1 and 2 (official respondents) and submits on instructions that a team has zeroed in on the third respondent and it appears that the detainee is with the third respondent.

4. Be that as it may, learned Additional Public Prosecutor also submits that this is second such successive incident as earlier on 14.11.2021, a similar complaint was given, the detainee was secured and handed over to the petitioner (father).

5. To be noted, before the next listing i.e., in the interregnum, if the detainee is secured by the police, it is open to the learned State Additional Public Prosecutor to mention before this Court and produce the detainee.

6. Notice to third respondent returnable in a fortnight i.e., returnable by 20.02.2023. Private notice permitted.

7. At request of learned Additional Public Prosecutor, list this matter a fortnight hence. List on 20.02.2023.'

Proceedings dated 20.02.2023

Read this in conjunction with and in continuation of earlier proceedings made in the previous listing on 03.02.2023.



H.C.P.No.166 of 2023

WEB COPY

2. *Mr.R.Muniyapparaj, learned Additional Public Prosecutor submitted that the investigation is being carried out after registering an FIR in Crime No.400 of 2022. The detenue is a minor girl (school going child). The learned Additional Public Prosecutor produced a case diary before us. On a perusal of the same, this Court finds that except formal witnesses, no substantial witnesses were examined.*

3. *In view of the same, first respondent-Superintendent of Police, Ariyalur District is directed to monitor the investigation and file a status report.*

4. *List on 06.03.2023.'*

The aforementioned two proceedings shall be read as an integral part and parcel of this order.

4. The aforementioned proceedings are telltale *qua* crux of the issue as well as the trajectory the matter has taken before us. As regards the trajectory, today the petitioner along with her spouse (Shanmugam) as well as the absentee were before us.

5. To be noted, the absentee was produced before us by the respondent police.



H.C.P.No.166 of 2023

WEB COPY

6. The petitioner and her spouse (parents) and the absentee had a long interaction in the Court hall for more than one and a half hours. In this interaction, there was adequate privacy for parents and the absentee.

7. After the interaction, we were informed that the absentee is not willing to go with her parents. The absentee says that she would continue to stay in the Home in which she is lodged. To be noted, we are informed that she is now lodged at Thiruvallur Childran Home at Lingatharimedu, Ariyalur District.

8. We are also informed that absentee is pursuing her 12th standard and she has to take her public examinations. Let the jurisdictional police make adequate arrangements in this regard in coordination with the jurisdictional 'Child Welfare Committee' (C.W.C.). We are further informed that the third respondent has since been nabbed and remanded to judicial custody. We are also informed that as regards F.I.R., which was originally registered as 'Girl Missing', i.e. F.I.R.No.400 of 2022 dated 13.12.2022 on the file of second respondent the same has now been altered as Sections 363, 366(A),



H.C.P.No.166 of 2023

376(ii)(n) of 'Indian Penal Code, 1860 (Act 45 of 1860)' ['IPC' for brevity] and Section 5(i)(j)(ii) of 'The Protection of Children from Sexual Offences Act, 2012 (32 of 2012)' [hereinafter 'POCSO Act' for the sake of brevity] and Section 9 of the Prohibition of Child Marriage Act, 2006. Let the Law take its course as far as this aspect of the matter is concerned.

9. In the light of the narrative thus far, captioned HCP is disposed of as closed making it clear that all rights and contentions of all parties concerned including the third respondent (who is not before us) are preserved *qua* the captioned matter and the legal proceedings which are underway.

(M.S.,J.) (M.N.K.,J.)
06.03.2023

Index : Yes / No
Speaking / Non-speaking
Neutral Citation : Yes / No
rsi



H.C.P.No.166 of 2023

To

WEB COPY

- 1.The Superintendent of Police,
Ariyalur District,
Tamilnadu.
- 2.The Inspector of Police,
Andimadam Police Station,
Ariyalur District.
- 3.The Public Prosecutor,
High Court, Madras.



WEB COPY



H.C.P.No.166 of 2023

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

rsi

H.C.P.No.166 of 2023

06.03.2023