



HCP No.136 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.02.2023

Coram

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

H.C.P. No.136 of 2023

R.Balakrishnan

... Petitioner

-VS-

1.The Superintendent of Police,
Gandhiji Road, Marapalam,
Erode District.

2.State rep. by
The Sub-Inspector of Police,
Ammamet Police Station,
Ammamet,
Erode District.

... Respondents

Habeas Corpus Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus directing the respondents to produce the body and person of the petitioner's missing wife, by name, xxxxx aged about 23 years, before this Court and handover the petitioner's wife to the petitioner.



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For Petitioner	..	Mr.C.Rajaguru
For Respondents	..	Mr.R.Muniyapparaj Additional Public Prosecutor
For Absentee	..	Mr.V.Sivaraman for Mr.K.Balu

ORDER

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

Captioned 'Habeas Corpus Petition' [hereinafter 'HCP' for the sake of convenience and brevity] has been filed saying that the petitioner married a 21 years old girl [we are not mentioning the name with the intention of masking and we shall refer to her as 'absentee' for convenience] on 21.10.2022. The marriage was registered on 26.10.2022. It is further submitted by the petitioner that on 21.01.2023 the absentee's father took away the absentee and a complaint was lodged on the file of the second respondent Police Station and the complaint was registered vide C.S.R.No.16/2023 dated 21.01.2023.

2.Mr.C.Rajaguru, learned counsel for petitioner, Mr.R.Muniyapparaj, learned Additional Public Prosecutor for all the respondents and



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Mr.V.Sivaraman, learned counsel representing Mr.K.Balu, counsel for absentee are before us.

3. When the matter last came up before us on 01.02.2023, we made proceedings which reads as follows:

'The petitioner got married with one xxxxx on 21.10.2022 which was a self-respect marriage and the same was registered on 26.10.2022 at Mylapore Sub-Registrar Office. Thereafter, they were living as husband and wife. The parents of the petitioner's wife and others came to the house of the petitioner and forcefully taken away his wife on 21.01.2023. The petitioner lodged a complaint and the same was assigned as CSR No.16 of 2023 but no action was taken. Hence, this habeas corpus petition was filed by the petitioner to hand over his wife, who is alleged to be in illegal custody of her parents.

2. Mr.R.Muniyapparaj, learned Additional Public Prosecutor who accepts notice for both the respondents submits that the petitioner's wife informed the police that she is not interested to continue her marriage life with petitioner. The learned Additional Public Prosecutor is unable to produce the statement or any other material in



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support of his contention.

3. Hence, this Court directs the respondents to produce materials to support his contention and to secure and produce the petitioner's wife viz., Dharani before this Court on the date of next hearing.

4. List on 08.02.2023.'

4.Today, the absentee has been produced before us. The petitioner was also present in Court. We had separate interactions with the absentee and the petitioner. The absentee admits the marriage and says that marriage was by her free will but the absentee submitted that she is now not inclined to continue the marital relationship with the petitioner. The absentee made it clear that she wants to stay with her parents and she is now living with her parents by her own volition. The absentee was not inclined to interact with the petitioner though the option was given to her.

5.The petitioner submitted that he is inclined to continue the marital relationship and he added that the absentee appears to have been put under pressure by her family members with the intention of diluting the marriage.



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6.Owing to captioned matter being a Habeas Corpus Petition, we refrain from expressing any opinion on the same and we leave it open to the Family Court or any other appropriate Court to deal with the differing stated positions, if proceedings are initiated by the petitioner or the absentee.

7.As it is clear that the absentee who is a major is not in illegal detention, we close the captioned HCP recording what transpired in the Court today.

8.The captioned HCP is disposed of as closed in the aforesaid manner. There shall be no order as to costs.

(M.S,J.) (M.N.K.,J.)
08.02.2023

Index:Yes/No
Neutral Citation : Yes/No
cse



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

cse

To

- 1.The Superintendent of Police,
Gandhiji Road, Marapalam,
Erode District.
- 2.The Sub-Inspector of Police,
Ammamet Police Station,
Ammamet, Erode District.

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