



H.C.P.No.332 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :20.03.2023

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THE HONOURABLE MR.JUSTICE M.SUNDAR

and

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

H.C.P.No.332 of 2023

Mr.E.Suresh

S/o.Mr.Elumalai

..

Petitioner /

Vs.

1. The Superintendent of Police
Kallakurichi Police

2. The Inspector of Police
Ulundurpet Police Station
Kallakurichi District

... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of habeas corpus to call for the records relating to the FIR No.74, dated 08.02.2023, pending on the file of the 2nd respondent and direct the respondents to produce the petitioner's Minor daughter xxx, daughter of Mr.E.Suresh, aged 16 years before this Court, now she is detained in the custody of Mr.Mathiyazhagan and handover her custody to the petitioner forthwith.



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For Petitioner : Ms.S.Magarani

For Respondents : Mr.R.Muniyapparaj
Additional Public Prosecutor

ORDER

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

This order will now dispose of the captioned Habeas Corpus Petition.

2. This order has to be read in conjunction with and in continuation of earlier proceedings made in the previous listing on 03.03.2023, which reads as follows:

'Captioned 'Habeas Corpus Petition' ['HCP' for the sake of brevity] has been filed saying that the petitioner's minor daughter 'XXX' (we are not mentioning the name with the intention of masking and petitioner's daughter shall be hereinafter referred to as 'absentee' for the sake of convenience and clarity) is missing from 07.02.2023.

2. To be noted, absentee is 16 years old and she is studying in tenth standard in a Government school is the petitioner counsel's say. It is submitted that the absentee is missing from 07.02.2023, a complaint has been lodged with the second respondent police on



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08.02.2023 and the same has been taken on file vide Crime No.74/2023.

3. As the absentee is a minor, we are inclined to issue notice to ensure that the minor is not in illegal custody. Mr.R.Muniyapparaj, learned State Public Prosecutor assisted by Mr.M.Sylvester John, who accepts notice on behalf of both respondents, submits, on instructions, that investigation is underway, there has been progress and they are hoping to locate the minor.

4. Let the needful be done within a fortnight from today. In the interregnum, if the absentee is located, it is open to both sides to mention the matter before this Court.

List a fortnight hence. List on 17.03.2023.'

3. The above proceedings has to be read as an integral part and parcel of this order. Therefore, short forms and abbreviations will continue to be used in the instant proceedings also.

4. Ms.S.Magarani, learned counsel for petitioner, petitioner, petitioner's spouse and Mr.R.Muniyapparaj, learned Additional Public Prosecutor, assisted by Mr.N.Narkeeran, learned counsel, are before us.



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5. Pursuant to aforementioned earlier proceedings, the absentee has been produced before us. We had separate interactions with the absentee as well as her parents i.e., petitioner in captioned HCP and his spouse.

6. The absentee says that she left her parental home out of her own volition and she now wants to go back to her parental home. Likewise, the petitioner and his spouse (parents of the absentee) also submit that they would take good care and be good care givers qua the absentee.

7. We are informed that a complaint has been given by the petitioner in the second respondent police station on 08.02.2023 and the same has been taken on file as Crime No.74 of 2023. Let the investigation proceed in accordance with law and we are not expressing any opinion on the same considering the legal perimeter of a habeas corpus legal drill. This also means that all rights and contentions of the petitioner, absentee and any other person pertaining to aforementioned crime number are left open and preserved for being canvassed as the investigation and the case (if any) are proceed to further and be carried to its logical end and on its own merits and in accordance with law, untrammelled by this order.



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8. The absentee now goes with the petitioner and his spouse i.e., her parents.

9. In the light of the narrative thus far, we drop the curtains on the captioned HCP.

Captioned HCP disposed of as closed.

(M.S.,J.)

(N.A.V.,J.)

20.03.2023

Index : Yes / No

Speaking / Non-speaking

Neutral Citation : Yes / No

gpa

To

1. The Superintendent of Police
Kallakurichi Police

2. The Inspector of Police
Ulundurpet Police Station
Kallakurichi District

3. The Public Prosecutor
High Court, Madras.

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