



H.C.P.No.371 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.03.2023

CORAM

THE HONOURABLE MR.JUSTICE **M.SUNDAR**
and
THE HONOURABLE MR.JUSTICE **M.NIRMAL KUMAR**

H.C.P.No.371 of 2023

S.Suresh Babu

.. Petitioner

Vs

1.The Commissioner of Police,
The Greater Chennai,
No.132, E.V.K. Sampath Road,
Vepery, Periamet, Chennai – 7.

2.The Inspector of Police,
S5 Pallavaram Police Station,
Pallavaram, Chennai – 43.

3.Lalitha Selvaraj

4.S.Ganesh

5.Shadithya Rehabilitation Centre
rep. By Dr.M.Sree Prathap,
Chairman, Chief Psychiatrist and
Medical Director,
No.768, Pammal Main Road,
Pallavaram, Chennai – 43.

.. Respondents



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Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of habeas corpus to direct the second respondent to secure the body of the detenu K.Selvaraj, S/o.Late Mr.Kothandan, aged about 72 years, from the illegal custody of the respondents 3 to 5 and to produce him before this Court to set the detenu free.

For Petitioner : Mr.I.Prakash Raj
For Respondents : Mr.R.Muniyapparaj
Additional Public Prosecutor
assisted by Mr.M.Sylvester John
for R1 and R2

ORDER

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

Captioned 'Habeas Corpus Petition' (hereinafter 'HCP' for the sake of brevity) has been filed by son of absentee (To be noted name of the absentee is K.Selvaraj and we are informed that he is 72 years old). Respondents 1 and 2 are official respondents. Respondents 3 and 4 are the wife and another son of the absentee. Fifth respondent is a Rehabilitation centre.



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2. Mr.I.Prakash Raj, learned counsel for petitioner submits that the absentee is missing from 05.02.2023. The petitioner has given a complaint in the second respondent police station on 19.02.2023. It is the further submission of learned counsel for petitioner that there is inaction on the part of the second respondent police and he apprehends that the absentee is in illegal detention.

3. Mr.R.Muniyapparaj, learned State Additional Public Prosecutor who accepts notice on behalf of respondents 1 and 2 submits that the police acted on the aforementioned complaint given by the petitioner and it has come to light that the absentee is now in the fifth respondent Rehabilitation Centre on his own volition, in other words, the absentee is not in illegal detention or illegal custody, is learned State Additional Public Prosecutor's say. It is further submitted that it comes to light in the enquiry that there appears to be some property dispute within the family and that comes across as a trigger but we express no opinion on the same for two reasons. First reason is, it is outside the legal perimeter of a HCP. The second reason is respondents 3 and 4 - the other two family members are not before us. To be noted, the absentee is also not before us.



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4. Be that as it may, a videograph showing statement given by the absentee has also been placed before us by learned State Additional Public Prosecutor who is instructed by Mr.E.Sathish Kumar, Sub Inspector of Police, T3 Pallavaram Police Station, Chennai.

5. The complaint of the learned counsel for petitioner is that the petitioner was not given a good interaction with his father i.e., absentee when he last went to the fifth respondent Rehabilitation Centre.

6. Learned State Additional Public Prosecutor on instructions submits that the petitioner can always have an interaction with the absentee at the fifth respondent Rehabilitation Centre subject to the will of the absentee and after fixing time and date in advance. This drops the curtains on the captioned HCP.

7. We deem it appropriate to say that it will suffice to make an observation that the aforementioned complaint dated 19.02.2023 shall be carried to its logical end in accordance with law. We find no reason to embark upon a habeas corpus legal drill as it is not a case of illegal detention or illegal custody. Though obvious and though alluded



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to supra, we make it clear that we have not expressed any view or opinion on the inter se family dispute, all the questions are left open and this is more so as respondents 3, 4 and 5 are not before us.

8. Sequitur is, captioned HCP is disposed of as closed.

(M.S.,J.) (M.N.K.,J.)
14.03.2023

Index : Yes / No
Neutral Citation : Yes / No
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To

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- 3.The Public Prosecutor
High Court, Madras.

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