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Crl.MP.No.3859 of 2023

in

HCP No.47 of 2023

R. MAHADEVAN, J.

and

N.ANAND VENKATESH, J.

[Order of the Court was made by N.ANAND VENKATESH.,J]

This petition was filed by the mother of the absentee on the ground that the respondent Police failed to comply with the order passed in HCP.No.47 of 2023 on 11.01.2023 and they did not secure the absentee, who is aged about 15 years and whose whereabouts are not known from 03.12.2022 onwards.

2.The HCP was disposed of by this Court by an order dated 11.01.2023 with the following direction:

“In such view of the matter, this habeas corpus petition stands closed with a direction to the Assistant Commissioner of Police, Neelankarai Range, Chennai, to supervise the investigation in Crime No.458 of 2022 that is being conducted by the Inspector of Police, Neelankarai Police Station and keep the petitioner and Santhakumar informed of the developments, if any. As and when the detenue Shalini, aged about 15 years, is secured, she shall be produced before the Judicial Magistrate Court No.II, Alandur, Chennai, under intimation to the petitioner and Santhakumar. On such production, the learned Magistrate may pass appropriate orders with regard to custody in accordance with law”.



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3. When this petition came up for hearing on 18.04.2023, this Court passed the following order:

Mr.E.Mahesh Kumar, Inspector, J8 Police Station, Neelankarai was present at the time of hearing.

2.Mr.S.Raja Kumar, learned Additional Public Prosecutor appearing on behalf of the respondent police submitted that all efforts are being made to find out the whereabouts of the absentee.

3. This Court passed the Order in H.C.P.No.47 of 2023 on 11.01.2023 and till date, the respondent police has not even found the whereabouts of the absentee. The absentee is aged 15 years and hence, the respondent has to necessarily find her whereabouts, secure her and produce her before this Court on the next date of hearing.

4. Post this case on 27.04.2023 at 2.15 p.m.

4. When the matter was taken up for hearing today, the learned Additional Public Prosecutor submitted a status report filed by the Inspector of Police, Neelankarai Police Station. For proper appreciation, the relevant portions in the status report are extracted hereunder:

8. I submit that on 21.04.2023 at about 04.00 hours, the special team secured the absentee and 3rd respondent at Kattukudalur. Tr.V Ka Nagar, Virudhachalam and bring them to respondent police station.



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9. I submit that on 21.04.2023 I have examined the absentee and recorded her statements. From the statement it reveals that the absentee and 3rd respondent loved each other. Since, the absentee along with 3rd respondent went to Virudhachalam and married at Murugan Temple and stayed there for two months, at that time the 3 respondent had a sexual intercourse with absentee many times. Now the absentee is 2 months pregnant.

10. I submit that on 21.04 2023 I have produced the absentee along with 3 respondent before the Judicial Magistrate Court, Alandur and the magistrate directed the respondent police to produce the absentee along with 3rd respondent to All women Police Station, Neelangaral, Chennai.

11 I submit that on 22.04.2023, the inspector of Police, All Women Police Station, Neelangarai, took up the case for further investigation and altered the offences under section from u/s "Girt Missing to u/s 366, 5(1), 5(j), 6 of POCSO Act and arrested the accused and recorded his confession statement and produced him before the Special Court for Pocso Act and remanded him into Judicial custody. The Inspector of Police, All women Police Station, Neelangarai admitted the absentee before Government Hospital. Kasthuribal Gandhi, Triplicane and now she is under treatment. As per the Doctor advise, the absentee may stay in the Hospital for further treatment and examination.

12. I submit that the respondent police received the complaint in a free and fair manner and secured the absentee and accused and also altered the offences under section. As soon as I complete the investigation and filled a charge sheet before the competent court in accordance with law

5.Heard Mr.V.Achuthanandan, learned counsel for the petitioner and Mr.A.Rajakumar, learned Additional Public Prosecutor appearing on behalf of the



respondents.

6.It is evident from the status report that the absentee was secured on 21.04.2023 along with the 3rd respondent and she was produced before the Judicial Magistrate Court, Alandur as directed by this Court by order dated 11.01.2023. The absentee was two months pregnant and as per the doctors advise, she was admitted in the Government Hospital for further treatment and examination.

7.The learned Additional Public Prosecutor submitted that the absentee was enquired and her statement was recorded and she had informed the Police that she developed an affair with the 3rd respondent and both of them went to Virudhachalam and were staying for nearly two months. The 3rd respondent seems to have indulged in sexual intercourse with the absentee and as a result, the absentee became pregnant. In view of this development, the offence was altered in Crime No.458/2022 and the FIR was registered for offence u/s 366 of IPC and relevant provisions under the POCSO Act and the 3rd respondent was arrested and he was remanded to judicial custody.

8.We were informed by the learned Additional Public Prosecutor that the absentee was not willing to go with the petitioner and she expressed her willingness



to stay with her grandfather, who is none other than the father of the petitioner. The petitioner, who was present in person at the time of hearing also confirmed this fact.

We were informed that the absentee had some serious misgivings against her foster father.

9. In the considered view of this Court, the welfare of the absentee, who is aged about 15 years must be taken into consideration by this Court. This is more so due to the fact that the absentee is now two months pregnant. Hence, we deem it fit to permit the absentee to stay along with her grandfather. It is left open to the petitioner to visit the absentee as and when she wishes and take care of the absentee. It goes without saying that the 2nd respondent shall proceed further with the investigation in Crime No.458/2022 and complete the same as expeditiously as possible and take the case to its logical end.

This criminal miscellaneous petition is disposed of accordingly.

[R.M.D., J]. [N.A.V., J.]

28.04.2023

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R. MAHADEVAN, J.
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