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H.C.P.No.437 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.03.2023

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THE HONOURABLE MR.JUSTICE M.SUNDAR
and

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

H.C.P.No.437 of 2023

Mrs.Sulochana V
W/o.Vairamuthu

.... Petitioner/
Mother of the detenu

Vs.

1. The Commissioner of Police greater Chennai
The Commissioner Office
EVK Sampath Salai
Vepery, Chennai – 600 007

2. The Inspector of Police
E-3, Police Station, Teynampet
Chennai – 600 018

.... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of habeas corpus to direct the respondents to produce the petitioner son namely Vinoth Kumar aged about 29 years before this Court and set him at liberty.

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For Petitioner : Mr.V.Prabhu
For Respondents : Mr.R.Muniyapparaj
Additional Public Prosecutor
Assisted by
Mr.M.Sylvester John, Advocate

ORDER

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

Captioned 'Habeas Corpus Petition' ['HCP'] has been filed saying that petitioner's son one Vinoth Kumar, aged 29 years, is missing from 08.08.2022.

2. Mr.V.Prabhu, learned counsel for petitioner submits that a complaint has been lodged with the second respondent police (jurisdictional police) on 10.08.2022 and pursuant to the same, an FIR for 'Man Missing' has been registered vide Crime No.265 of 2022 (dated 10.08.2022).

3. Mr.R.Muniyapparaj, learned Additional Public Prosecutor, assisted by Mr.Sylvester John, who accepts notice for the respondents (official respondents) [to be noted, no private respondent finds a place in the array of



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respondents] submits that pursuant to aforementioned FIR, investigation commenced and preliminary investigation brings to light that steps were taken to get the absentee married to 'xxx', not being interested in the marriage and being disenchanted with the petitioner, the absentee has left home.

4. We deem it appropriate to say that the investigation shall proceed in accordance with law. Though obvious, we express no opinion or view on the investigation and what appears to have surfaced in the preliminary stage of the investigation. We also remind ourselves of ***Selvaraj*** case [***Selvaraj Vs State, rep. by the Superintendent of Police, Nagapattinam District*** and another reported in ***(2018) 3 MLJ (Crl) 712***] wherein in a similar fact situation a Hon'ble Division Bench of this Court has held that such cases cannot be brought within the legal drill of a HCP. To be noted, this ***Selvaraj*** case is also a case law for the principle that such cases cannot be subjected to HCP legal drill and that HCP legal drill will be attracted only in cases of allegations and illegal detention. We also remind ourselves of ***Sukumari*** case [***K.Sukumari Vs Superintendent of Police and others*** reported in ***(2018) 2 LW (Crl) 636 : (2018) 3 MWN (Crl) 122***], wherein



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guidelines were laid down by this Court authored by one of us (N.ANAND VENKATESH.J.) for dealing with such Man Missing cases. We are informed that XVIII Metropolitan Magistrate Court, Saidapet is the jurisdictional Court. Though obvious, jurisdictional police shall produce the absentee before the jurisdictional Magistrate as and when absentee is located.

5. Curtains are down on the captioned Habeas Corpus Petition. Captioend HCP disposed of as closed albeit with the aforementioned observation.

(M.S.,J.)

(N.A.V.,J.)

23.03.2023

Index : Yes
Speaking

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To

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2. The Inspector of Police
E-3, Police Station, Teynampet
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3. The Public Prosecutor
High Court, Madras.

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and
N.ANAND VENKATESH.J.

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