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HCP No.581 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.08.2023

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR
and

THE HONOURABLE MR.JUSTICE R.SAKTHIVEL

H.C.P.No.581 of 2023

R.Arumugam
S/o.M.Ramalingam

.. Petitioner

Vs.

1. The Superintendent of Police
Office of the Superintendent of Police
Velipalayam, Near New Bus stand
Nagapattinam - 611 001
Nagapattinam District.

2. The Inspector of Police
Nagore Police Station
Nagore
Nagapattinam District 611 002.

3. R.Naveen
S/o.S.Ramachandran

..Respondents

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 produce the petitioner's daughter 'xxxxx' aged 19 years old from the illegal custody of third respondent R.Naveen and set her at liberty.



HCP No.581 of 2023

WEB COPY

For Petitioner : Ms.R.Latha
representing MsV.Alamelu
For Respondents : Mr.E.Raj Thilak
Additional Public Prosecutor
for R1 and R2

ORDER

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

This order will now dispose of the captioned 'Habeas Corpus Petition'
[hereinafter 'HCP' for the sake of brevity, convenience and clarity].

2. Captioned HCP has been filed in this Court on 21.03.2023.

3. Proceedings / order made in the Admission Board on 13.04.2023

reads as follows:

'H.C.P.No.581 of 2023

M.SUNDAR, J.,

and

M.NIRMAL KUMAR, J.,

(Order of the Court was made by M.NIRMAL KUMAR.J.,)

The petitioner's daughter is studying first year Engineering in EGS Pillay Engineering College, Nagore. The petitioner's daughter usually commutes by College Bus. On 19.01.2023, she did not



HCP No.581 of 2023

WEB COPY

return home. Thereafter, the petitioner was in search of her daughter and at that time he was informed by College bus driver Prabhu that petitioner's daughter was called for enquiry by the college authorities and her mobile was taken by them. The bus driver further informed that one Naveen (third respondent herein), the classmate of absentee was also enquired and he suspect that the petitioner's daughter would have gone along with said Naveen. On 20.01.2023, the mobile phone of petitioner's daughter was also handed over to the petitioner. Thereafter, the petitioner approached the second respondent and lodged a complaint on 20.01.2023 but no action was taken. The petitioner approached higher officials and thereafter only a case in Crime No.37 of 2023 was registered on 25.01.2023.

2. In the meanwhile, the father of Naveen informed that Naveen is also missing from 20.01.2023. After registration of FIR, neither the petitioner nor any one from the college enquired. The mobile handed over by the petitioner is the only material available with the respondents.

3. Learned Additional Public Prosecutor submits that on the complaint of the petitioner, FIR registered and CDR details collected. Learned Prosecutor submits that the petitioner's daughter had a friendly relationship with her classmate Naveen and both of them are found missing from 20.01.2023. Father of Naveen also lodged a complaint with the second respondent and a case in Crime No.118 of 2023 was registered. Learned Prosecutor submits that CCTV footage from the college was also collected. From the CDR and other information collected, it is found that petitioner's



HCP No.581 of 2023

daughter and Naveen are found near Bangalore.

4. Learned Prosecutor seeks a small accommodation and confident that within a period of two weeks, missing persons will be located and secured.

List on 27.04.2023.'

4. Adding to the aforementioned Admission Board proceedings, we deem it appropriate to say that petitioner's daughter shall hereinafter be referred to as 'absentee' for the sake of convenience and that the Date of Birth of absentee is 08.12.2004. This means that the absentee was a major even as on the date from which she is missing (according to the petitioner who is her father) i.e., date being 19.01.2023. A complaint given by petitioner and complaint given by third respondent's father are FIR No.37 of 2023 dated 25.01.2023 (woman missing) and FIR No.118 of 2023 dated 02.04.2023 respectively both on the file of Nagore Police Station (to be noted, Inspector of Police of this Nagore Police Station is second respondent). Thereafter, there were multiple listings but the proceedings made in the listing on 15.06.2023 is necessary for capturing the trajectory the matter has taken and therefore, we reproduce the same. Reproduction of 15.06.2023 order is as follows:

'Read this in conjunction with and in continuation of earlier



HCP No.581 of 2023

proceedings made in the previous listings on 13.04.2023, 27.04.2023 and 01.06.2023.

2. *We find that the absentee is missing from 19.01.2023 and F.I.R. has been registered on 25.01.2023 vide Crime No.37 of 2023 on the file of the jurisdictional police station i.e., Nagore Police Station, but there is little progress in the matter.*

3. *Considering the facts and circumstances of the case and the trajectory the matter has taken before us, we deem it appropriate to escalate the issue to the first respondent. Let status report be filed by the first respondent by next listing inter-alia capturing the investigation thus far.*

4. *Today, the second respondent is not present in Court to instruct the learned Prosecutor. A Head Constable from jurisdictional police station is present.*

5. *Let the second respondent (we are informed that second respondent is the Investigating Officer) remain present in Court in the next listing.*

6. *List one week hence. List on 22.06.2023.'*

5. Pursuant to 15.06.2023 proceedings, a status report of first respondent dated 20.06.2023 is before us. It may not be necessary to set out the contents of the status report and it will suffice to record that the status report says that second respondent under the guidance / supervision of first respondent is taking all possible steps for locating the absentee and third



HCP No.581 of 2023

respondent pursuant to the aforementioned two FIRs.

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6. Today, Ms.R.Latha, learned counsel representing Ms.V.Alamelu, counsel on record for petitioner, Mr.E.Raj Thilak, learned State Additional Public Prosecutor instructed by Mr.G.Veera Pillai, Special Sub-Inspector of Police, Nagore Police Station are before us.

7. Learned counsel for petitioner reiterates the aforementioned facts and trajectory the matter has taken.

8. Learned Prosecutor, on instructions, submits that there have been further developments post 20.06.2023 report of first respondent and investigation is taking a trajectory whereby the respondents are confident of locating the absentee and third respondent very shortly.

9. This Court is informed that third respondent is also a major.

10. Be that as it may, one more aspect of the matter is, learned Prosecutor submits on instructions that investigation thus far brings to light



HCP No.581 of 2023

that it is not a case of illegal detention or unlawful custody and therefore, we deem it appropriate to draw the curtains qua captioned HCP albeit making it clear that investigation shall continue / proceed in accordance with law and on absentee and third respondent being located, let them be produced before jurisdictional Magistrate (we are informed that jurisdictional Magistrate is learned Judicial Magistrate No.II, Nagapattinam) with advance intimation to the petitioner and we request learned jurisdictional Magistrate to record statements of all concerned i.e., absentee, third respondent, petitioner and any one concerned with the absentee. Though obvious, we make it clear that post recording of such statements also all rights and contentions of petitioner, absentee, third respondent and any other person concerned with the matter are preserved for any connected / collateral proceedings in appropriate Court/s/Forum/Fora/Authority/Authorities. It is made clear that investigation shall proceed untrammelled by this order *de hors* closure of this HCP. It is also made clear that it is open to the petitioner, any one concerned for the absentee or third respondent to come to this Court with similar / same HCP prayer, if there are other or further developments warranting habeas drill.

