



H.C.P.No.467 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.03.2023

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR
and

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

H.C.P.No.467 of 2023

G.Kalyana Sundaram
S/o.Govindaraju

.. Petitioner

Vs.

State by

1. The Superintendent of Police
Cuddalore
Cuddalore District.

2. The Inspector of Police
Shri Mushnam Police Station
Cuddalore District

3. Sathish
S/o.Kannusamy

.. 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 police to secure and produce the petitioner's daughter xxxx, aged about 22 years before this Hon'ble Court and set her at liberty.

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For Petitioner : Mr.A.G.Rajan
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.,]

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

2. Captioned HCP has been filed in this Court on 21.03.2023 based on a complaint that the petitioner's daughter 'xxxxx' [we are masking the name of the petitioner's daughter and she shall henceforth be referred to as 'absentee' for the sake of convenience and clarity and for obvious reasons] is missing from 29.01.2023.

3. Mr.A.G.Rajan, learned counsel on record for petitioner who is before this Court submits that the absentee went shopping on 29.01.2023 but she did not return home. It is further submitted that a complaint was



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lodge with the jurisdictional police (second respondent) on 10.02.2023 and the same was taken on file in Crime No.34 of 2023. It is also submitted that the absentee is friendly with third respondent (private respondent) and that turns the needle of suspicion towards third respondent.

4. Mr.R.Muniyapparaj, learned Additional Public Prosecutor who accepted notice on behalf of respondents 1 and 2 (official respondents) submits that pursuant to the aforementioned complaint dated 10.02.2023, investigation was kick started and preliminary investigation reveals the following:

(a) This is the second episode. Earlier episode i.e., earlier complaint was on 13.01.2023 (CSR No.30 of 2022) and that also pertains to the absentee and third respondent;

(b) It is not a case of illegal detention but it *prima facie* appears to be a case of absentee having voluntarily left with the third respondent on her own volition;

(c) The complaint is being pursued and it will be carried to its logical end;



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5. In the light of the narrative thus far, as it comes across as a case which is not one of illegal detention or illegal custody, we deem it appropriate to drop the curtains on the captioned HCP but with observations that the aforementioned complaint shall be carried to its logical end and as and when the absentee is located, the absentee shall be produced before the concerned Judicial Magistrate (we are informed that concerned Judicial Magistrate is Judicial Magistrate-II, Virudhachalam). We also make it clear that the rights and contentions of the petitioner, absentee, third respondent and / or anyone concerned for them are preserved for further proceedings if such a need arises.

6. Captioned HCP is disposed of as closed albeit with the aforementioned observations. There shall be no order as to costs.

(M.S.,J.)

(M.N.K.,J.)

28.03.2023

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Speaking

Neutral Citation : Yes

mk

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To

1. The Superintendent of Police
Cuddalore
Cuddalore District.
2. The Inspector of Police
Shri Mushnam Police Station
Cuddalore District
4. The Public Prosecutor
High Court, Madras.



WEB COPY



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M.SUNDAR, J.,
and
M.NIRMAL KUMAR, J.,

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