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H.C.P.No.485 of 2023

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.03.2023

CORAM

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

H.C.P.No.485 of 2023

M.Reshma

D/o.Malik Basha

.. Petitioner

Vs

1.The Commissioner of Police
Avadi Commissioner Office
Avadi, Tiruvallur District

2. The Inspector of Police
T-7, Tank Factory Police Station
Avadi, Tiruvallur District

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of habeas corpus to direct 1st and 2nd respondents herein to produce the body of the petitioner husband Mohammed Thousif, aged 29 years, son of Ibrahim before this Court and to set him at liberty.

For Petitioner : Ms.R.Madhu Bala

For Respondents : Mr.R.Muniyapparaj
Additional Public Prosecutor

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Assisted by Mr.M.Sylvester John

ORDER

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

Captioned 'Habeas Corpus Petition' ['HCP' for the sake of brevity] has been filed saying that petitioner's spouse one Mohammed Thousif, aged 29 years is missing, a complaint has been lodged with the jurisdictional police i.e., second respondent and it is necessary to locate the absentee.

2. Ms.R.Madhu Bala, learned counsel on record for the petitioner, who is before us, submits that there is a mistake in the petition and petitioner has been wrongly described as wife of Malik Basha whereas the correct position is the petitioner is daughter of Malik Basha and spouse of the absentee Mohammed Thousif.

3. Considering the facts and circumstances of the case, we ordered notice and Mr.R.Muniyapparaj, learned Additional Public Prosecutor, assisted by Mr.Sylvester John, Advocate, accepted notice on behalf of both the respondents. To be noted, learned Prosecutor is instructed by Mr.V.Gopinath, Inspector of Police, T-7, Tank Factory Police Station



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(Second Respondent). On instructions, learned counsel submits that according to the Case Diary, the absentee is missing from 14.05.2022, a complaint was lodged with the second respondent by the petitioner, the same was taken on file vide Crime No.518 of 2022 (dated 20.10.2022) and investigation has been kick started. On further instructions, learned Additional Public Prosecutor submits that preliminary investigations reveal that the absentee is friendly with another individual and it is possible that the absentee has left for Coimbatore or some part of the western region with the individual with whom she is friendly. Learned Prosecutor also submits (on instructions) that special teams have been formed and every effort is being taken to locate the absentee. It is also submitted that the special teams are hopeful of locating the absentee as expeditiously as possible and the likely time frame is four weeks.

4. We make it clear that this is only a likely time frame and this is not a specified time line or a directive from this Court.

5. Let the investigation proceed on its own merits and in accordance with law. As and when the absentee is located let him be produced before the jurisdictional Magistrate in accordance with law. To be noted, we are



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informed that Judicial Magistrate, Ambattur is the jurisdictional Magistrate qua aforementioned Crime No.518 of 2022 dated 20.10.2022 on the file of the second respondent.

6. We shall be dropping the curtains on the captioned HCP but we make it clear that all the rights and contentions of the petitioner and any other person concerned with this matter are preserved for further proceedings, if any and we make it clear that it is open to the petitioner or anyone concerned for the absentee to make to this Court with suitable prayer if there is inordinate delay in locating the absentee or for that matter similar / same prayer (if there is change of circumstances qua absentee of illegal detention). We also deem it appropriate to record that we are informed that preliminary investigations reveal that this is not a case of illegal detention or illegal custody and it prima facie appears to be a case where the absentee has left on his own volition. This is another reason why we are dropping the curtains on the captioned HCP albeit preserving all the rights and contentions in the aforesaid manner.



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In the light of the narrative thus far, captioned HCP is disposed of as closed albeit with aforementioned observations preserving the rights all concerned in the aforesaid manner.

(M.S.,J.)

(M.N.K.,J.)

30.03.2023

Index : Yes / No

Neutral Citation : Yes / No

Speaking Order/Non-Speaking Order

gpa

To

1.The Commissioner of Police
Avadi Commissioner Office
Avadi, Tiruvallur District

2. The Inspector of Police
T-7, Tank Factory Police Station
Avadi, Tiruvallur District

3.The Public Prosecutor,
High Court, Madras.



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

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