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H.C.P.No.529 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.04.2023

CORAM

THE HONOURABLE MR.JUSTICE **M.SUNDAR**
and
THE HONOURABLE DR.JUSTICE **D.NAGARJUN**

H.C.P.No.529 of 2023

M.Sheikoli

.. Petitioner

Vs

1.The Commissioner of Police,
Office of the Commissioner of Police,
Coimbatore – 641 018.

2.The Inspector of Police,
Thudiyalur Police Station,
Coimbatore District – 641 022.

3.Rahul

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of habeas corpus directing the first respondent to produce the body of XXX, wife of petitioner, aged about 22 years, now at the hands of third respondent before this Court and set her at liberty.

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For Petitioner : Mr.P.Saravanan
For Respondents : Mr.R.Muniyapparaj
Additional Public Prosecutor
assisted by Mr.M.Sylvester John
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' ('HCP' for the sake of brevity convenience and clarity).

2. The central theme or in other words the nucleus of the captioned HCP is petitioner's wife one XXX (we are masking the name and we shall be referring to the petitioner's wife as 'absentee' for the sake of convenience and clarity) aged 22 years and the complaint of the petitioner is that absentee has been illegally detained by the third respondent (to be noted third respondent is the blood brother of the absentee).

3. When the matter was taken up in the forenoon, petitioner and third respondent's mother were present. As regards the petitioner, petitioner's counsel Mr.P.Saravanan was before us and as regards



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respondents 1 and 2 (official respondents), Mr.R.Muniyapparaj, learned State Additional Public Prosecutor was before us. The absentee was also before us. We had the benefit of an interaction with the absentee and what we could gather from the absentee in this interaction is as follows:

(i) The date of birth of the absentee is 13.02.2000.

(This means that the absentee is a major);

(ii) The absentee married the petitioner on 16.03.2023 in a Jamaath in Omalur, Salem (To be noted even as of 16.03.2023, the absentee was a major);

(iii) The absentee made it clear that she was not illegally detained or confined by the third respondent/brother or the mother who was also present in Court. It was the categoric submission of the absentee that she voluntarily went over to her parental home;

(iv) The absentee said that she would like to go with the petitioner and continue her matrimonial relationship with the petitioner.



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4. We had the benefit of interaction with the petitioner, third respondent and absentee's mother and what we could cull out from these interactions is as follows:

(i) The petitioner has also found a friend's place to live with his wife (absentee) and that is about 250 kms from the petitioner's parental home we are refraining from giving the address or location for obvious reasons;

(ii) The petitioner also wants to continue his matrimonial relationship and live with the absentee as husband and wife;

(iii) The third respondent made it clear that he has nothing to say with regard to absentee's marriage to the petitioner and he only said that if there is any issue tomorrow or if the matrimonial relationship runs into rough weather the absentee should not turn to him for help;

(iv) The third respondent's mother said that her only concern is absentee's safety as according to her, the petitioner's uncle had held out threats saying that he is



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unhappy about the marriage of the absentee with the petitioner.

5. From the narrative thus far, it is clear that the petitioner and the absentee are majors, they have contracted a marriage, on the date of marriage also, both the petitioner and the absentee were majors and they are entitled to make their own choice. To be noted, choice has been stated with specificity and clarity and the same has been captured by us in the narrative supra.

6. As regards the alleged threats said to have been held out by the petitioner's family, we have requested the Prosecutor to instruct the jurisdictional police (to be noted the jurisdictional police within whose jurisdiction the petitioner now intends to set up his matrimonial home in his friend's place) to be live to the situation and be alert to avert any likely untoward incident. Likewise, we request the Prosecutor to instruct the jurisdictional police qua the third respondent also.

7. The Prosecutor confirms that he has instructed the aforementioned jurisdictional police officers who were present in Court.

8. From the narrative set out supra and from what has been



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captured supra qua what unfurled in the hearing, it is clear that there is no illegal detention and therefore we deem it appropriate to drop the curtains on the captioned HCP.

9. Ergo, sequitur is, captioned HCP is disposed of as closed albeit with aforementioned narrative and observations.

(M.S.,J.) (D.N.R.,J.)
06.04.2023

Index : Yes / No
Neutral Citation : Yes / No
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To

- 1.The Commissioner of Police,
Office of the Commissioner of Police,
Coimbatore – 641 018.
- 2.The Inspector of Police,
Thudiyalur Police Station,
Coimbatore District – 641 022.
- 3.The Public Prosecutor
High Court, Madras.

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**M.SUNDAR, J.,
and
Dr.D.NAGARJUN , J.,**

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