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H.C.P.No.533 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.04.2023

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR
and

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

H.C.P.No.533 of 2023

J.Balu
Son of Jayaram

.. Petitioner

Vs.

1. The State Rep. by its
The Commissioner of Police
Greater Chennai.
No.132, Commissioner Office Building
EVK Sampath Road,
Periyapet, Vepery
Chennai-600 007.

2. The Inspector of Police
J-8, Neelankarai Police Station
No.221, SH 49, Saraswathi Nagar
Neelankarai, Chennai-600 115.

3. Ayyappan .. Respondents

Petition filed under Article 226 of the Constitution of India praying
for issuance of a writ of habeas corpus to direct the 2nd respondent to

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produce the petitioner's daughter viz., xxxxx, aged 17 years minor daughter of Balu from the custody of the 3rd respondent and hand over to the petitioner before this Hon'ble Court.

For Petitioner : Mr.J.Arul Prakasam
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 brevity].

2. The central theme of the captioned HCP is that the petitioner's daughter xxxxx [we are masking the name of the petitioner's daughter and shall hereinafter refer to her as 'absentee' for the sake of convenience, clarity and reasons that are obvious] is missing from 23.11.2022, a complaint has been lodged with jurisdictional police (second respondent) on 25.11.2022 vide Crime No.440 of 2022 and it is believed by petitioner that there is a possibility of the absentee being in illegal custody of third respondent. To



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be noted, third respondent is a private respondent.

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3. Issue notice.

4. Mr.R.Muniyapparaj, learned State Additional Public Prosecutor, assisted by Mr.M.Sylvester John, learned counsel accepted notice for respondents 1 and 2 (official respondents) and Mr.R.Muniyapparaj, learned Additional Public Prosecutor on instructions from Mr.C.Magesh Kumar, Inspector of Police and Mr.G.Prabhu, Sub-Inspector of Police, J-8, Neelankarai Police Station submits that preliminary investigation brings to light that absentee is friendly with third respondent who is a major (24 years of age we are informed), there was an earlier episode wherein the absentee had gone over to the residence of third respondent and expressed her intention to marry the third respondent but we are not expressing any opinion on the same. It is now submitted by the learned Prosecutor that it appears to be a case of absentee having voluntarily left with third respondent. However, learned Prosecutor submitted on instructions that a special team has been formed and they are hopeful of locating the absentee and third respondent in three weeks time i.e., by 02.05.2023.



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5. In the light of the narrative thus far, as case on hand *prima facie* does not appear to come across as a case of illegal custody, we deem it appropriate to drop the curtains on the captioned HCP making it clear that the aforesaid complaint shall proceed in accordance with law on its own merits and on the absentee being located, the absentee shall be produced before the jurisdictional Magistrate (we are informed that jurisdictional Magistrate is Judicial Magistrate No.II, Alandur).

6. Though obvious, we make it clear that all rights and contentions of the petitioner, absentee, third respondent or anyone concerned for absentee are preserved for further / collateral proceedings, if any. We also make it clear that all the rights and contentions of the petitioner, absentee or anyone concerned for absentee are also preserved for coming to this Court again with a suitable petition / prayer if there is undue delay in locating the absentee and / or with a similar / same prayer if there is any other development/change of circumstances.



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7. Captioned HCP disposed of as closed albeit with the aforesaid observations and preserving all the rights and contentions of the parties concerned in the aforesaid manner. There shall be no order as to costs.

(M.S.,J.)

(M.N.K.,J.)

10.04.2023

Index : Yes

Speaking

Neutral Citation : Yes

mk

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M.NIRMAL KUMAR, J.,

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