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HCP No.595 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.08.2023

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR
and

THE HONOURABLE MR.JUSTICE R.SAKTHIVEL

H.C.P.No.595 of 2023

D.Bakkiyaraj
S/o.Durai

.. Petitioner

Vs.

1. The District Superintendent of Police
Ranipet
Ranipet District.

2. The Inspector of Police
Vazhaipanthal Police Station
Ranipet District.

3. S/Honnastraj
S/o.Selvam

..Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of habeas corpus to direct the 1st and 2nd respondents to produce the petitioner's minor daughter viz., xxxxx D/o.Bakkiyaraj, aged about 17 years, from the illegal custody of 3rd respondent before this Hon'ble Court and hand over her custody to the petitioner.



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For Petitioner : Mr.T.Vijayan
For Respondents : Mr.E.Raj Thilak
Additional Public Prosecutor

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. This order has to be read in conjunction with and in continuation of earlier proceedings made in the previous listing on 17.04.2023 which reads as follows:

'Captioned 'Habeas Corpus Petition' [hereinafter 'HCP' for the sake of convenience and clarity] has been filed saying that the petitioner's daughter 'xxxxx' [we are masking the name of the petitioner's daughter and she shall hereinafter be referred to as 'absentee' for the sake of convenience and clarity] is missing from 18.03.2023.

2. Mr.T.Vijayan, learned counsel on record for petitioner who is before us submits that the absentee went to school at around 9.30 a.m. on 18.03.2023 but did not return. It is submitted that a complaint was lodged with the police on 19.03.2023 and the same was registered as Crime No.48 of 2023 on the file of jurisdictional police. Learned counsel for petitioner submits that the absentee is



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17 years old and she was born in June of 2005. It is also submitted by the learned counsel for petitioner that the petitioner verily believes that the absentee has been illegally detained by the third respondent.

3. Issue notice to official respondents (respondents 1 and 2).

4. Mr.R.Muniyapparaj, learned Additional Public Prosecutor, accepts notice for respondents 1 and 2 (official respondents).

5. Learned Prosecutor, on instructions, submits that earlier there was an attempt by petitioner to give the absentee in marriage to her uncle one Suresh, this was some time in the year 2022, a complaint was lodged by the third respondent and alleged child marriage attempt was stalled. Learned Prosecutor further submits that preliminary investigation brings to light that the absentee is friendly with third respondent and it is likely that they have left for some places. It is further submitted that a special team has been formed and the absentee and third respondent will be located in four weeks. Let the investigation proceed on its own merits and in accordance with law.

6. Next listing will be on 02.06.2023 but we make it clear that it is open to either parties to mention before jurisdictional Magistrate (we are informed Judicial Magistrate, Arcot is the jurisdictional Magistrate) if the absentee is located in the interregnum.

7. List on 02.06.2023.'

3. To be noted, thereafter there were three listings on 09.06.2023,



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21.06.2023 and 19.07.2023 and proceedings made on those listings are as follows:

Proceedings dated 09.06.2023:

' No development or urgency is reported.

2. Re-notified. List on 19.06.2023.'

Proceedings dated 21.06.2023:

' There is no representation for the petitioner; however, with the intention of giving opportunity to the petitioner and petitioner's counsel, list this matter again four weeks hence.

List on 19.07.2023.'

Proceedings dated 19.07.2023:

' Re-notified at the request of learned Prosecutor.

List on 07.08.2023.'

4. Today, captioned matter was mentioned, we were informed that absentee has since been located and therefore, the captioned HCP was taken up by way of additional list.

5. Mr.T.Vijayan, learned counsel for petitioner, petitioner, Mr.E.Raj Thilak, learned Prosecutor (Additional Public Prosecutor, State of Tamil Nadu) for respondents 1 and 2 (instructed by Thiru.K.Kandeepan, Inspector of Police, Valapandal Police Station, Ranipet District i.e., third respondent)



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and absentee are present in Court.

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6. We had interaction with the absentee and following points emerged:

(i) Absentee, as of today, is a major as her date of birth is 14.06.2005;

(ii) Absentee says that she married third respondent on 23.06.2023;

(iii) Absentee is very clear that she wants to live with third respondent (her husband) and we are informed that third respondent is 23 years old;

(iv) Absentee submitted that there was pressure from the petitioner to marry her maternal uncle (mother's brother) and it appears that there was a child marriage attempt but we do not express any opinion on this as we would be leaving it to the jurisdictional police to continue and conclude the investigation;

7. In the light of the narrative thus far, we find that this is not a case of illegal detention or unlawful custody. Absentee is a major as of today. As regards allegations of the petitioner on one side as well as allegations of



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absentee against petitioner and his spouse (absentee's parents) {child marriage attempt} let the jurisdictional police investigate in accordance with law and continue the investigation to its logical end.

M.SUNDAR, J.,
and
R.SAKTHIVEL, J.,

mk

8. Captioned HCP is disposed of as closed albeit with the aforementioned observations.

(M.S.,J.) (R.S.V.,J.)
01.08.2023

Index : Yes
Speaking
Neutral Citation : Yes
mk

To

1. The District Superintendent of Police
Ranipet
Ranipet District.
2. The Inspector of Police
Vazhaipanthar Police Station
Ranipet District.
3. The Public Prosecutor
High Court, Madras.



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