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H.C.P.No.573 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.04.2023

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR
and

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

H.C.P.No.573 of 2023

Sudhandiradevi
W/o.Azhagesan

.. Petitioner

Vs.

1. The Commissioner of Police
Tambaram
Chennai-600 119.

2. The Inspector of Police
Semmancherry Police Station
Chennai-600 119.

3. Mr.Sathish
S/o.Ganesan

.. 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 produce petitioner's daughter xxxxx aged 18 years before the Hon'ble Court from the illegal custody of the 3rd respondent and set her at liberty.

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For Petitioner : Mr.Prabhu .C
For Respondents : Mr.R.Muniyapparaj
Additional Public Prosecutor
assisted by
Mr.N.Narkeeran, Advocate

ORDER

[Order of the Court was made by M.NIRMAL KUMAR, J.,]

The petitioner, who is the mother of one '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] lodged a complaint before the respondent police on 31.01.2023 complaining that her minor daughter who is studying B.A.English 1st year in Dr.Umayal Ramanathan College for Women, Karaikudi found missing. During holidays, the absentee used to come home, one Sathish, son of Ganesan, third respondent herein made some proposal to the petitioner's daughter which was rejected by her, but the third respondent constantly harassing the absentee. On 28.01.2023 at about 12.00 noon, the third respondent came to the house of petitioner and had a wordy duel, proclaimed that he would marry the absentee even if it is prevented by anyone. On the same day the absentee was found missing.

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The petitioner's apprehension is that the absentee would have been forcibly taken away and hence, lodged a complaint and an FIR in Crime No.48 of 2023 for 'girl missing' was registered. Thereafter, on 04.02.2023 the absentee was dropped near her house by the third respondent, when the absentee was enquired by second respondent, she informed to the police that the third respondent on 31.01.2023 performed the marriage in the presence of his family members and thereafter, she was forced to physical relationship. This being so, the police, not taken any action against the third respondent. However, again on 21.03.2023 at about 5.00 p.m. third respondent abducted the absentee. The petitioner approached the second respondent, the second respondent abused the petitioner by stating that earlier the absentee was traced out thereafter the petitioner was unable to safeguard the absentee properly allowed the absentee to elope for the second time. The petitioner was accused of disturbing the police and hence, complaint was not entertained. Having no other way, the petitioner sent the complaint through registered post on 28.03.2023, the respondent received the same but no action taken. Apprehending danger to the life and safety of the absentee, the petitioner filed the present habeas corpus petition.



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2. Mr.R.Muniyapparaj, learned State Additional Public Prosecutor, assisted by Mr.N.Narkeeran, learned counsel who accepts notice for respondents 1 and 2 submits that on the complaint of the petitioner an FIR in Crime No.48 of 2023 registered and thereafter, the absentee on her own volition joined her parents. The Date of Birth of the absentee is 04.03.2005 and she completed 18 years of age as on 04.03.2023. On the complaint of the petitioner, investigation is in progress. The CDR details of the third respondent as well as the absentee received and as per CDR it is found that the third respondent is found somewhere near Cuddalore. The absentee will be located and secured within a period of four weeks by the Special Team which is formed.

3. As the learned Additional Public Prosecutor assures that the absentee will be located and secured within a period of four weeks, this Court is of the view that the investigation in Crime No.48 of 2023 is in progress. The second respondent police on securing the absentee shall produce her before the jurisdictional Magistrate namely, Judicial Magistrate No.II, Alandur. The petitioner to be informed about the production of the absentee. We deem it appropriate to state that we have not gone into the



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merits and the contentions of the petitioner.

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4. Before we write the operative portion, we also make it clear that if there is any undue delay in locating the absentee, it is open to the petitioner or anyone concerned for the absentee to come to this Court or approach any other Forum with a suitable petition and the rights of all concerned in this regard are preserved. Likewise, we also make it clear that if there is any other development in the matter which points towards possible illegal detention, it is open to the petitioner or anyone concerned for the absentee to come to this Court with same/similar prayer.

5. Captioned Habeas Corpus Petition is disposed of as closed albeit with the aforementioned observations and preserving the rights of all concerned in the aforesaid manner. There shall be no order as to costs.

(M.S.,J.)

(M.N.K.,J.)

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Neutral Citation : Yes

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

mk

To

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High Court, Madras.

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