



H.C.P.No.596 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.04.2023

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR

and

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

H.C.P.No.596 of 2023

Kavitha

W/o.Dhanasekar

.. Petitioner

Vs.

1. The Commissioner of Police
Vivekananda Nagar
TNHB Mig V Block
Avadi, Chennai-600 071.

2. The Inspector of Police
T-10, Thirumullaivoyal Police Station
Thirumullaivoyal
Chennai-600 062.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of habeas corpus to direct the respondent police to produce the body of person of the victim Mr.Dhanasekar aged about 43 years who is the petitioner's husband before this Hon'ble Court and set him at liberty.

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For Petitioner : Ms.M.Rittika
representing Mr.T.Ravi Shankar
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.,]

Captioned 'Habeas Corpus Petition' ['HCP' for the sake of convenience and clarity] has been filed in this Court on 06.04.2023 saying that the petitioner's spouse one Dhanasekar is missing from 15.03.2023.

2. Ms.M.Rittika, learned counsel representing the counsel on record for petitioner who is before us submits that the petitioner's spouse [hereinafter 'absentee' for the sake of convenience and clarity] informed the petitioner that he is going to see his friend, on 15.03.2023 the absentee came home, took his personal effects and left his mobile in his shop. As the absentee did not return, petitioner lodged a complaint with the jurisdictional police (second respondent) on 18.03.2023 and the same was taken on file as Crime No.126 of 2023.

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3. Issue notice.

4. Mr.R.Muniyapparaj, learned Additional Public Prosecutor assisted by Mr.M.Sylvester John, learned counsel accepts notice for both respondents.

5. Learned Prosecutor, on instructions submits that investigation pursuant to the aforementioned complaint commenced, preliminary investigation brings to light that the absentee appears to have borrowed about Rs.20 Lakhs from various sources, he is in difficulty as regards repaying the same and in this backdrop, he appears to have made himself scarce. We make it clear that we are expressing no opinion at this stage. To be noted, there is no specific allegation of illegal detention. To be noted, learned Prosecutor submits that they are hopeful of locating the absentee in six weeks i.e., by 29.06.2023.

6. Let the investigation proceed on its own merits and in accordance with law. On the absentee being located, let the absentee be produced before



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jurisdictional Magistrate (we are informed that Judicial Magistrate, Ambattur is the jurisdictional Magistrate) with prior intimation to the petitioner.

7. We would be dropping curtains on the captioned HCP but we make it clear that all the rights and contentions of the petitioner, absentee or anyone concerned for absentee are preserved for coming to this Court with a suitable prayer, if there is undue delay in locating the absentee and all rights are preserved with regard to coming to this Court with a same / similar prayer, if there is any other development leading to illegal detention.

8. Captioned HCP is disposed of as closed albeit preserving all the rights and contentions of the petitioner to the extent and manner indicated supra. There shall be no order as to costs.

(M.S.,J.) (M.N.K.,J.)
17.04.2023

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Speaking
Neutral Citation : Yes
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To

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3. The Public Prosecutor
High Court, Madras.



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