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H.C.P.No.665 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.08.2023

CORAM

THE HONOURABLE MR.JUSTICE **M.SUNDAR**  
and  
THE HONOURABLE MR.JUSTICE **R.SAKTHIVEL**

**H.C.P.No.665 of 2023**

Mahalakshmi

.. Petitioner

Vs

1.The Commissioner of Police,  
132, EVK Sampath Road,  
Vepery, Periyamet,  
Chennai – 600 007.

2.The Inspector of Police,  
S9, Police Station,  
Pazhavanthangal,  
Chennai – 600 114.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of habeas corpus directing the 2<sup>nd</sup> respondent to produce the petitioner's minor daughter XXX before this Court, who is in custody and handover her to the petitioner.

|                 |   |                                                 |
|-----------------|---|-------------------------------------------------|
| For Petitioner  | : | Mr.Rajesh Kumar                                 |
| For Respondents | : | Mr.E.Raj Thilak<br>Additional Public Prosecutor |

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**ORDER**

[Order of the Court was made by **M.SUNDAR, J.,**]

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This order will now dispose of 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 Admission Board listing on 24.04.2023 which reads as follows:

**'H. C. P. No. 665 of 2023**

**M.SUNDAR, J.,**

**and**

**M.NIRMAL KUMAR, J.,**

**(Order of the Court was made by M.SUNDAR, J.,)**

*Captioned 'Habeas Corpus Petition' ['HCP' for the sake of brevity] has been filed with a complaint that petitioner's daughter 'xxx' [we are masking the name and we shall be referring to petitioner's daughter as 'absentee' for the sake of convenience and for obvious reasons] is missing from 28.02.2023.*

*2. This Bench is informed by learned counsel for petitioner that the absentee is a minor and she was born in August of 2006. It is also submitted that a complaint has been lodged with the jurisdictional police (second respondent) on 01.03.2023 and the same has been taken on file as Crime No.47 of 2023.*

*3. It is submitted that it is not clear as to whether it is a case of illegal detention as the petitioner says that she has come to know that the absentee is with one Vinoth.*

*4. Issue notice.*



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5. *Mr.E.Raj Thilak, learned State Additional Public Prosecutor accepted notice for both the respondents and submitted on instructions from Mr.N.Gnanavel, Sub-Inspector of Police, S9, Pazhavanthangal police Station (who is present in Court) that it appears that the absentee is friendly with one Vinoth from Edappadi in Salem District, a special team has been formed and six weeks time is required to locate the absentee.*

6. *Let the investigation proceed in accordance with law. In the interregnum owing to intervening summer recess if the absentee is located, let the absentee be produced before the jurisdictional Magistrate (we are informed that Judicial Magistrate, Alandur is the jurisdictional Magistrate), after advance intimation to the petitioner.*

*List on 05.06.2023.'*

3. Today, when the matter was taken up, Mr.S.Rajesh Kumar, learned counsel on record for HCP petitioner and Mr.E.Raj Thilak, learned State Additional Public Prosecutor for both the respondents (instructed by Ms.P.Sweety, Sub Inspector of Police, W31 All Women Police Station, St. Thomas Mount, Chennai) are before us.

4. Adverting to the Admission Board orders/proceedings dated 24.04.2023, learned Prosecutor has filed a status report and the status report shows that the absentee was located, taken to the Government General Hospital, Chromepet, Chennai on 29.05.2023 for medical examination and handed over to the Kellys Child Welfare



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Committee on 02.06.2023. The absentee was produced before the Additional Mahila Court, Alandur and a statement under Section 164 Cr.P.C. has been recorded and the absentee has been again handed over to the Kellys Child Welfare Committee. The status report goes on to state that on 21.06.2023, the absentee was handed over to the petitioner (absentee's mother). This by itself drops the curtains on the captioned HCP.

5. However, it is submitted that five days after 21.06.2023 the absentee has again left home but the petitioner or anybody on behalf of the absentee has not lodged any complaint in this regard thus far.

6. Faced with the above situation, learned counsel on record for HCP petitioner requested leave of this Court to withdraw captioned HCP and made a plea that the rights of the petitioner to prefer a fresh complaint and pursue the same may please be preserved. Learned counsel on record for HCP petitioner has made an endorsement in the case file and a scanned reproduction of the same is as follows:



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**SIGN**

Not pressed, maybe withdrawn  
S. RAJESH KUMAR  
S. Rajesh Kumar  
4441/2019  
Counsel for petitioner

**MEMORANDUM OF HABEAS CORPUS  
PETITION**  
(Under Article 226 of the Indian  
Constitution)

**IN THE HIGH COURT OF JUDICATURE AT  
MADRAS**  
(CRIMINAL ORIGINAL JURISDICTION)

HCP.No. 665 of 2023

Mrs. Mahalakshmi ...Petitioner

Vs.  
The Commissioner of police & Anr  
...Respondent

**PETITION**

M/S. SAMSULKUDHA  
Abdul Rahman  
COUNSEL FOR PETITIONER  
En Roll No. 404/2017  
98401 86541

(13)



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7. Learned counsel reiterates the aforementioned endorsement.

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8. In the light of the aforementioned endorsement/reiteration of the same, captioned HCP is disposed of as closed/withdrawn albeit preserving the rights of the petitioner and or anyone concerned for the absentee to lodge a fresh complaint giving adequate particulars. Though obvious we make it clear that the jurisdictional police shall investigate the matter qua complaint (to be given) on its own merits and in accordance with law.

(M.S.,J.) (R.S.V.,J.)  
21.08.2023

Index : Yes/No  
Neutral Citation : Yes/No  
mmi

To

1.The Commissioner of Police,  
132, EVK Sampath Road,  
Vepery, Periyamet,  
Chennai – 600 007.

2.The Inspector of Police,  
S9, Police Station,  
Pazhavanthangal,  
Chennai – 600 114.

3.The Public Prosecutor,  
High Court, Madras.

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

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