



H.C.P.No.810 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.06.2023

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR
and

THE HONOURABLE MR.JUSTICE R.SAKTHIVEL

H.C.P.No.810 of 2023

R.Sathish Sellakumar
S/o.Ramasamy

.. Petitioner

Vs.

1. The Superintendent of Police
Coimbatore
Coimbatore District.

2. The Inspector of Police
Sulur Police Station
Sulur, Coimbatore.

3. Sarojini
W/o.Late Palanisamy

..Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of habeas corpus to direct the second respondent herein to secure the petitioner's daughter by name xxx, aged 15 years, D/o Sathish Sellakumar and produce her before this Hon'ble Court and hand over her custody to the petitioner.

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For Petitioner : Mr.D.R.Arunkumar
representing
Mr.R.Kannan
For Respondents : Mr.R.Muniyapparaj
Additional Public Prosecutor
assisted by
Mr.N.Narkeeran
Advocate
for R1 and R2
Ms.R.Prem Rajakumari, for R3

ORDER

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

This order will now dispose of the captioned 'Habeas Corpus Petition'
[hereinafter referred to as 'HCP' for the sake of convenience and clarity].

2. The crux and gravamen of the captioned HCP is one 'xxx' (we are masking the name and we shall be referring to 'xxx' who is daughter of the petitioner as 'absentee' for the sake of convenience and clarity) is suspected to be in illegal detention and more particularly illegal detention of third respondent, who is mother of petitioner's former wife, the petitioner having obtained a decree of divorce vide H.M.O.P.No.114 of 2018 on the file of Principal District Judge's Court, Coimbatore, vide order dated 05.12.2019.

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3. Mr.D.R.Arun Kumar, learned counsel representing the learned counsel on record for petitioner, petitioner and third respondent besides Mr.R.Muniyapparaj, learned State Additional Public Prosecutor instructed by Sub-Inspector of Police, Suler Police Station, Coimbatore are present.

4. The absentee was produced before us. We had an interaction with the absentee. The absentee stated that she is now in Grade 11 in a boarding school in Kothagiri (we are masking the name of the school for obvious reasons) and the absentee submitted that she is studying by staying in the campus.

5. Be that as it may, what is of greater significance as far as habeas corpus legal drill on hand is concerned, the petitioner has already filed a petition in G.W.O.P.No.182 of 2022, more particularly, under Sections 7(1), 8(b), 9 and 10 of 'Guardian and Wards Act 1890' [hereinafter 'GAWA Act' for the sake of convenience and clarity] with a prayer for appointment of guardian of the absentee. This is vide G.W.O.P.No.182 of 2022 on the file of the 'Principal District Judge's Court, Coimbatore' [hereinafter 'GAWA



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Court' for the sake of convenience and clarity]. A copy of the petition has been annexed to the typed set of papers and we find that the petitioner's divorced spouse is shown as lone respondent but learned counsel for petitioner submits that a implead petition was subsequently taken out and third respondent before us who is petitioner's divorced spouse's mother has now been added as second respondent. To be noted, Ms.R.Prem Raja Kumari, learned counsel [Enrollment No.1007/09] with address for service at No.21, 22, Thambiah Reddy Colony, 4th Cross Street, Madambakkam, Chennai-600 126, Mobile No.9790800721 submits that she has instructions to represent the third respondent before us. Learned counsel submits that she undertakes to enter appearance and file vakalatnama on behalf of both the respondents in GAWA Court. This submission is recorded.

6. As the GAWA Court is in seizin of the matter, we refrain ourselves from expressing any opinion and we also refrain ourselves from elaborating qua our interaction with the absentee. In other words, all questions are left open to be canvassed before the GAWA Court which shall consider the matter on its own merits and in accordance with law as expeditiously as the



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business of the GAWA Court would permit.

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7. The narrative thus far brings to light that this is not a case of illegal detention and therefore we drop the curtains on the habeas corpus legal drill albeit making it clear that all the rights and contentions of the parties more particularly petitioner, third respondent and petitioner's divorced spouse are preserved for being canvassed before the GAWA Court or in any other collateral proceedings in any other Court / Forum.

8. Captioned HCP is disposed of as closed. There shall be no order as to costs.

(M.S.,J.)

(R.S.V.,J.)

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Speaking

Neutral Citation : Yes

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

mk

To

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

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