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H.C.P.No.818 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.06.2023

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR
and

THE HONOURABLE Mrs.JUSTICE K.GOVINDARAJAN
THILAGAVADI

H.C.P.No.818 of 2023

Sharmila

W/o.Jothiboss

..

Petitioner /

mother of the detenu

Vs.

1. The Superintendent of Police
O/o.Superintendent of Police
Thiruvarur District

2. The Inspector of Police
Vaippur Police Station
Thiruvarur District

3. Murugesan

... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of habeas corpus directing the second respondent herein to produce the body or person of petitioner's minor daughter 'xxx' aged 16 years before this Court and hand over to the petitioner.

For Petitioner

:

Mr.P.Muthamizh Selvakumar

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For Respondents : Mr.R.Muniyapparaj
Additional Public Prosecutor
Assisted by
Mr.N.Narkeeran, Advocate

ORDER

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

This order will now dispose of the captioned 'Habeas Corpus Petition' ['HCP' for the sake of brevity, convenience and clarity].

2. Captioned HCP has been filed in this Court on 08.05.2023 and it is predicated primarily on the plea that the petitioner's minor daughter 'xxx' (we are masking the name for obvious reasons and we shall be referring to petitioner's daughter as 'absentee' for the sake of convenience) is missing from 12.04.2023, a complaint has been lodged with jurisdictional police on 13.04.2023 (jurisdictional police is second respondent), complaint has been registered in F.I.R.No.65 of 2023 dated 13.04.2023 (to be noted, FIR for 'Girl Missing') and that there is apprehension that the absentee may be in illegal custody of the third respondent.



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3. Hon'ble Division Bench sitting in the Vacation Court issued notice on 10.05.2023 and thereafter, there were two listings on 17.05.2023 and 25.05.2023. Today, the petitioner, petitioner's counsel Mr.P.Muthamizh Selvakumar, Ms.Manimekalai, Inspector of Police, Anti-child Trafficking Unit, Thiruvavur (second respondent), Additional Public Prosecutor Mr.R.Muniyapparaj, for Respondents 1 and 2, assisted by Mr.N.Narkeeran and third respondent were present in Court.

4. Learned Prosecutor, on instructions, submitted that the absentee was located on 08.06.2023 in Sivakasi. This Bench had brief interactions with the absentee, petitioner and third respondent, one after the other in that order. The following fact scenario and other aspects of the matter emerged from the interactions:

(i) The absentee is a minor, her Date of Birth being 09.06.2007;

(ii) The third respondent is a major and he is 23 years old;

(iii) It is not a case of illegal detention or unlawful custody;

(iv) The absentee and third respondent are relatives. This

Bench was informed that the petitioner (absentee's mother) and the



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third respondent are cousins and relationship is akin to brother and sister. This means that third respondent is distant maternal uncle of the absentee;

(v) The absentee stated that she would go with her mother (HCP petitioner) and pursue her education;

(vi) The petitioner submitted that she would be a good care giver qua absentee and take good care of the absentee;

(vii) The petitioner also gave a categorical assurance that she would not harass or ill-treat the absentee in any manner qua this episode of leaving home for a short while;

(viii) The third respondent assured this Court that he will not interfere with the affairs of the absentee;

(ix) The petitioner submitted that a decision regarding the marriage of the absentee will be taken after she attains majority, which will be two years hence.

5. In the light of what we have captured qua interactions and the stated positions of the parties, we find that this is not a case of illegal



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detention or unlawful custody and therefore, we deem it appropriate to draw the curtains qua captioned HCP.

6. As regards FIR (FIR No.65 of 2023 dated 13.04.2023) on the file of the second respondent police i.e., Vaippur Police Station in Thiruvarur District, the same shall be concluded on its own merits and in accordance with law albeit by applying the circular dated 03.12.2022 bearing reference Rc No.009464/Crime-4(3)/2022 issued by the Director General of Police, State of Tamil Nadu.

Captioned HCP disposed of as closed.

(M.S.,J.)

(K.G.T.,J.)

09.06.2023

gpa

To

1. The Superintendent of Police
O/o.Superintendent of Police
Thiruvarur District
2. The Inspector of Police
Vaippur Police Station
Thiruvarur District
3. The Public Prosecutor
Madras High Court, Chennai

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M.SUNDAR, J.,
and
K.GOVINDARAJAN THILAGAVADI, J.,

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