



WEB COPY



H.C.P.No.828 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.06.2023

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR
and

THE HONOURABLE Mrs.JUSTICE K.GOVINDARAJAN
THILAKAVADI

H.C.P.No.828 of 2023

Rajeshwari

.. Petitioner

Vs.

1. State rep. By
The Superintendent of Police
Ariyalur
Ariyalur District

2. The Inspector of Police
All Women Police Station
Ariyalur
Ariyalur District

3. Jayapal

4. Dhanalakshmi

... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of habeas corpus directing the respondents to produce the detenu viz., Rajiv Gandhi, son of Jayapal, aged about 33 years before this

Page Nos.1/7



H.C.P.No.828 of 2023

Court and set him at liberty.

WEB COPY

For Petitioner : Mr.V.Illanchezian
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.,]

The nucleus of the captioned 'Habeas Corpus Petition' ['HCP' for the sake of brevity] one Rajiv Gandhi, aged 29 years (spouse of habeas corpus petitioner) is before us.

2. Before we proceed further, it may be necessary to capture the earlier proceedings made by Hon'ble predecessor Benches in the previous listings and the same are as follows:

Proceedings dated 10.05.2023

'Mr.S.Rajakumar, learned Additional Public Prosecutor accepts notice for R1 and R2 and seeks some time to cause enquiry and file a report.

2. Notice through Court as well as privately to R3 and R4 returnable 17.05.2023. Proof of service be placed on file by them.

3. Since there is some indication that the detenu may have suffered medical injuries, list on 17.05.2023 to await status report.'

Page Nos.2/7



WEB COPY



H.C.P.No.828 of 2023

Proceedings dated 17.05.2023

'The maintainability of the habeas corpus petition itself is under question, since the petitioner complains that her husband is staying with his parents/ her parents-in-law, who have been impleaded as the third and fourth respondents. That stay with parents cannot be stated as unlawful detention.

List the matter in the next vacation Court for filing a status report.'

Proceedings dated 25.05.2023

'The matter seems to be a family dispute.

At the request of the learned APP, post on 05.062023'

3. Today, the petitioner, petitioner's counsel Mr.V.Illanchezian, Mr.R.Muniyapparaj, learned Additional Public Prosecutor on behalf of Respondents 1 and 2 (official respondents) assisted by learned counsel Mr.N.Narkeeran, third respondent as well as fourth respondent and the petitioner's spouse Rajiv Gandhi, who shall hereinafter be referred to as 'absentee' were present in Court.

4. To be noted, respondents 3 and 4 are parents-in-law of the petitioner.



H.C.P.No.828 of 2023

5. We had brief interactions with the absentee and the petitioner, one after the other.

6. The following emerged from the interactions:

a) The absentee is staying with his parents (respondents 3 and 4) and is not in illegal detention or illegal custody of any one;

b) There is marital discord between the absentee and the petitioner;

c) the absentee had filed a petition for divorce vide H.M.O.P No.60 of 2022 on the file of Family Court, Ariyalur;

d) the petitioner, who is before us, had filed a counter affidavit in the H.M.O.P and after counseling and some hearing, H.M.O.P ultimately was dismissed for default on 18.03.2022;

e) the petitioner is living with her elder sister.

7. From the narrative thus far it is clear that it is a case of marital discord between the petitioner and the absentee and proceedings have already been initiated in the jurisdictional family Court. It is open to the parties to work out their remedies in the jurisdictional family Court or in any



H.C.P.No.828 of 2023

other appropriate Court /Fora. In this view of the matter we make it clear that we have not expressed any opinion or view on the merits of the matter and therefore, the Family Court or any other Court/Fora shall deal with the matter on its own merits and in accordance with law if approached. We make it clear that it is open to the petitioner to approach Family Court or any other Court and it is open to the absentee to resuscitate the HMOP.

8. In sum and substance as it is not a case of illegal detention or illegal custody, we drop the curtains on the captioned HCP. Captioned HCP disposed of as closed albeit preserving all the rights and contentions of the parties in the aforesaid manner.

(M.S.,J.)

(K.G.T.,J.)

05.06.2023

gpa



H.C.P.No.828 of 2023

To

WEB COPY

1. The Superintendent of Police
Ariyalur
Ariyalur District
2. The Inspector of Police
All Women Police Station
Ariyalur
Ariyalur District
3. The Public Prosecutor
Madras High Court, Chennai



WEB COPY



H.C.P.No.828 of 2023

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

gpa

H.C.P.No.828 of 2023

05.06.2023

Page Nos.7/7