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H.C.P.No.842 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.06.2023

Coram

THE HON'BLE MR.JUSTICE **M.SUNDAR**
and
THE HON'BLE MRS JUSTICE **K. GOVINDARAJAN THILAKAVADI**

H.C.P.No.842 of 2023

G.Muniammal

.. Petitioner

VS

1.State Rep. By
The Superintendent of Police,
District Police Office,
Dharmapuri, Dharmapuri District.

2.The Inspector of Police,
B-1, Town Police Station,
Dharmapuri, Dharmapuri District.

3.Silambarasan

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of habeas corpus directing respondent nos. 1 and 2 to produce the detainee XXX, aged 18 years, before this Court from the illegal detention of the 3rd respondent and set her at liberty.

For Petitioner : Mr.V.Rajamohan

For Respondents : Mr.R.Muniyapparaj
Additional Public Prosecutor
assisted by
Mr.N.Narkeeran
for R1 and R2



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ORDER

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

This order will now dispose of captioned 'Habeas Corpus Petition' (hereinafter 'HCP' for the sake of convenience and clarity).

2. Petitioner's granddaughter 'XXX' (hereinafter 'absentee' for the sake of convenience and clarity) was missing in April 2023; a complaint was lodged by the petitioner with the second respondent police on 20.04.2023 and a CSR was issued on the same day. Captioned HCP has been filed in this Court on 15.05.2023 on the apprehension that the absentee may have been illegally detained by the third respondent who is a private respondent. The Honourable Predecessor Bench (Vacation Court) issued notice on 17.05.2023. Post notice, today the petitioner along with her daughter (absentee's aunt), Mr.R.Muniyapparaj, learned State Additional Public Prosecutor for respondents 1 and 2 (official respondents), third respondent and absentee were all present in Court.

3. This Bench had the benefit of quick interactions with the absentee, petitioner and the third respondent in that order one after the other. From the interactions, the following position emerges:

(i) The date of birth of absentee is 26.09.2004 and



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therefore the absentee is a major;

(ii) The date of birth of third respondent is 21.08.2002 and therefore the third respondent is also a major;

(iii) The absentee says that she went with the third respondent on her own volition. They even tied the marital knot on 18.04.2023 in a temple i.e., Mariamman temple in Kerala;

(iv) The absentee wants to continue to stay with the third respondent who is now staying with his cousin in Bangalore and may move to Kaarimangalam with his father;

(v) The absentee wants to complete her school education and pursue her career;

(vi) The third respondent is gainfully employed and assures this Court that he would support the absentee to the hilt in her endeavour to study and further pursue her career;

(vii) The petitioner submitted that they would be happy to have the absentee with them;

(viii) The absentee submitted that the petitioner and other members of the family are keen to give her in marriage to a relative and she is disinclined in this regard.

4. In the light of the narrative thus far, it is clear that the absentee and the third respondent are majors and there is no case of illegal detention. The absentee and the third respondent are very clear and cogent in what they had to say. Learned counsel for petitioner pointed out that the marriage said to have taken place between the



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absentee and the third respondent is not legal as the third respondent has not completed 21 years of age. That is completely outside the realm of the captioned HCP as the absentee and the third respondent are majors without any disputation or contestation.

5. Therefore, whether the absentee and the third respondent have contracted a valid marriage is completely outside the realm of the legal drill which we have on hand as the grundnorm in such cases is to test whether it is a case of illegal detention or unlawful custody. In other respects, it is the choice of the individuals who are majors. To be noted, on a demurrer, absent valid marriage also it is open to the absentee to stay in her friend's place i.e., third respondent's place in this case.

6. In the light of the narrative thus far, as it is not a case of illegal detention or illegal custody, we drop the curtains of the captioned HCP. Captioned HCP is disposed of as closed.

(M.S.,J.) (K.G.T.,J.)
05.06.2023

Index : Yes / No
Neutral Citation : Yes / No
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To

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- 1.The Superintendent of Police,
District Police Office, Dharmapuri, Dharmapuri District.
- 2.The Inspector of Police,
B-1, Town Police Station,
Dharmapuri, Dharmapuri District.
- 3.The Public Prosecutor,
High Court, Madras.



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

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