



H.C.P.No.992 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.06.2023

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR
and

THE HONOURABLE MR.JUSTICE R.SAKTHIVEL

H.C.P.No.992 of 2023

Ravi

S/o.Panner Selvam

.. Petitioner

Vs.

1. The Commissioner of Police
Avadi Commissioner Officer
Avadi, Tiruvallur District.

2. The Inspector of Police
Thirumullaivoyal Police Station
Avadi, Tiruvallur District.

..Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of habeas corpus to direct the 2nd respondent therein to produce the body of the petitioner's daughter (minor) xxxxx daughter of Ravi, female, aged about 16 years before this Hon'ble Court and hand over to the petitioner.

For Petitioner	:	Ms.R.Madhubala
For Respondents	:	Mr.E.Raj Thilak Additional Public Prosecutor

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ORDER

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

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

2. Factual matrix in a nutshell is, that the petitioner's 16 years old minor daughter 'xxxxx' [we are masking the name and we shall be referring to the petitioner's daughter as 'absentee' in this order for the sake of convenience and clarity] is missing from 21.05.2023; that petitioner's wife (biological mother of the absentee is no more); that the petitioner has lodged a complaint with jurisdictional police and the same has been registered vide Crime No.257 of 2023 dated 29.05.2023 for 'girl missing'; that the petitioner, apprehending that the absentee may have been illegally detained by someone, has filed the captioned HCP in this Court on 05.06.2023; that we issued notice in the Admission Board; that Mr.E.Raj Thilak, learned Additional Public Prosecutor accepted notice for both respondents; that Mr.E.Raj Thilak, learned Additional Public Prosecutor submitted on

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instructions from Mr.Sankar, Sub-Inspector of Police, T-10, Thirumullaivoyal Police Station that the absentee is present in Court along with her grandmother (deceased biological mother's mother); that a statement under Section 161(3) of 'The Code of Criminal Procedure, 1973 (2 of 1974)' [hereinafter 'Cr.PC' for the sake of brevity and clarity] has been recorded;

3. This Court having set out the factual matrix, now proceeds to set out the legal drill that was carried out. This Bench had a short interaction with the absentee. The absentee said that she is comfortable with her grandmother and she preferred to stay in her grandmother's house. The absentee did express some discomfort about going with her father (petitioner before us) but we are not capturing the same and we refrain ourselves from expressing any view as we will be preserving all the rights of the parties to go before jurisdictional GAWA Court (to be noted, 'GAWA' stands for 'Guardians and Wards Act, 1890').



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4. In the light of the narrative thus far, this Bench is of the view that it is not a case of illegal detention. Therefore, we drop the curtains on the captioned HCP albeit making it clear that all the rights and contentions of the petitioner, absentee, aforementioned absentee's grandmother or any person concerned for the absentee to go either before jurisdictional GAWA Court or any other appropriate Court / Forum, if there are any proceedings or collateral proceedings. Though obvious, we make it clear that concerned Court / Forum, Courts / Fora shall consider the matter on its own merits and in accordance with law uninfluenced or untrammelled by this order which has been made by this Court for disposal of the captioned HCP.

5. HCP is disposed of albeit preserving all the rights of the parties in the aforesaid manner. There shall be no order as to costs.

(M.S.,J.)

(R.S.V.,J.)

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Neutral Citation : Yes

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To

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Avadi Commissioner Officer
Avadi, Tiruvallur District.
2. The Inspector of Police
Thirumullaivoyal Police Station
Avadi, Tiruvallur District.
3. The Public Prosecutor
High Court, Madras.

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

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