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H.C.P.No.1113 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.06.2023

CORAM

**THE HONOURABLE MR.JUSTICE M.SUNDAR
AND
THE HONOURABLE MR.JUSTICE R.SAKTHIVEL**

H.C.P.NO.1113 OF 2023

Rejitharaghu

.. Petitioner

Vs.

1.The Commissioner of Police
No.132, EVK Sampath Road,
Vepery, Periamet,
Chennai – 600 007.

2.The Inspector of Police
Nolambur All Women Police Station
Kavimani Salai, 6th Main Road,
Mogappair East, Chennai – 600 037.

3.S.Santhi

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India
praying for issuance of a Writ of Habeas Corpus to direct the 1st respondent to



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produce the detainee C.Bharathi Priyan aged 40 years before this Court who is under the custody of the 3rd respondent and set him at liberty.

For Petitioner : Mr.A.Senthilnathan
For Respondents : Mr.E.Raj Thilak
1 and 2 Additional Public Prosecutor

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 brevity, convenience and clarity].

2. Short facts are that the 'petitioner's spouse one C.Bharathi Priyan aged 40 years, working as Marine Engineer' [hereinafter 'absentee' for the sake of convenience and clarity]; that the petitioner has lodged complaints on 21.02.2023 and 22.05.2023 in this regard; that there are two children (Twin kids) from the wedlock between the petitioner and the absentee; that the two children are aged one year and six months; that both the children are with the petitioner; that captioned HCP has been filed alleging that the



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absentee has been illegally detained by the third respondent (to be noted, the third respondent, who is a private respondent is the mother-in-law of the petitioner and mother of the absentee); that captioned HCP has been filed in this Court on 09.06.2023.

3. Today, Mr.S.Senthilnathan, learned counsel on record for petitioner submitted that it is the apprehension of the petitioner; that the absentee has been illegally detained by his mother (third respondent).

4. Issue notice to respondents 1 and 2.

5. Learned Prosecutor who accepted notice on behalf of first and second respondents submitted on instructions (instructed by Ms.G.Gomathi (WSSI) W-8, Thirumangalam Police Station); that pursuant to the aforementioned two complaints, investigation was commenced; preliminary investigation brings to light that this does not appear to be a case of illegal detention. Learned Prosecutor submitted on instructions that the third respondent is not residing in the address given in the cause title but was



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residing in Karaikudi and a statement has been taken from her. Be that as it may, learned Public Prosecutor submitted that even according to the petitioner, the absentee is working in the High Seas as Marine Engineer and it is necessary to have the details of the employer company to facilitate further investigation.

6. Let the petitioner provide the address of the employer of the absentee to the respondents. Let the investigation proceed in accordance with law.

7. In the light of the narrative thus far, as it appears to be a case of matrimonial discord (To be noted, this is articulated in paragraph 4 of the support affidavit and we do not propose to elaborate on the same) and does not come across as a case of illegal detention, we drop curtains on the captioned HCP but we make it clear that the investigation for locating the absentee shall proceed and the absentee on being located shall be produced before the Judicial Magistrate (We are informed that the jurisdictional Magistrate is V Metropolitan Magistrate, Egmore).



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8. While producing the absentee before the Judicial Magistrate, advance intimation shall be given to the petitioner. As regard matrimonial discord and other complaints of the petitioner against the absentee, we make it clear that all the rights and contentions of the petitioner, absentee, third respondent and anyone concerned with the matter are preserved for the purpose of being canvassed in an appropriate court / courts, fora / forums and authority / authorities. If such a course is adopted, the court / courts, fora / forums and authority / authorities shall proceed with the matter on its own merits and in accordance with law and uninfluenced by the order of this Court which has been made for a limited purpose of a Habeas Corpus legal drill. To be noted, it is in this perspective that captioned HCP is being disposed off without issuing notice to third respondent. Though obvious, it is made clear that if third respondent gets roped in when the investigation proceeds this order will neither aid nor impede her rights and contentions.

9. Captioned HCP is disposed of with the aforementioned observations / directives. There shall be no order as to costs.



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10. Though the captioned HCP is disposed of, as investigation is in progress and in the light of the directives we have given, let this matter be listed in the cause list under the cause list caption 'FOR REPORT' on 14.08.2023.

(M.S., J.)

(R.S.V., J.)

28.06.2023

Index : Yes / No
Speaking / Non-speaking order
Neutral Citation : Yes / No
TK

To

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