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H.C.P.No.1082 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.06.2023

CORAM

**THE HONOURABLE MR.JUSTICE M.SUNDAR**  
and

**THE HONOURABLE MR.JUSTICE R.SAKTHIVEL**

H.C.P.No.1082 of 2023

Anuradha  
W/o.Arusamy

.. Petitioner

Vs.

1. The Commissioner of Police  
Office of the Commissioner of Police  
Coimbatore City.
2. The Inspector of Police  
Saravanampatti Police Station  
Coimbatore District.
3. Geetha  
W/o.Sathish Kumar

..Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of habeas corpus to direct the respondents 1 and 2 to produce the petitioner's husband namely, Arusamy, son of Rangasamy aged about 73 years, before this Hon'ble Court and set him at liberty.

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For Petitioner : Mr.M.Vijaya Ragavan  
For Respondents : Mr.E.Raj Thilak  
Additional Public Prosecutor

## **ORDER**

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

This order will now dispose of the captioned matter.

2. Factual matrix in a nutshell qua captioned 'Habeas Corpus Petition' [hereinafter 'HCP' for the sake of convenience and clarity] is that the petitioner is 63 years old; that petitioner's spouse is one 'Arusamy, aged 73 years' [hereinafter 'absentee' for the sake of convenience]; that third respondent (private respondent) is daughter-in-law of HCP petitioner and absentee; that third respondent is spouse of one Sathish Kumar, who is son of petitioner and absentee; that it has been averred by petitioner that absentee executed a general Power of Attorney on 25.04.2023 with regard to 'land admeasuring 2.72 acres or thereabouts in Pillichy Village, Coimbatore District' [hereinafter 'said land' for the sake of convenience and clarity]; that on 10.06.2023, it is averred by petitioner that the absentee told her that he is going to farmland but he went to Sub-Registrar's Office along with third

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respondent for cancelling this power of attorney document; that it is alleged that petitioner questioned third respondent on this but third respondent took the absentee away; that alleging illegal detention of absentee by third respondent, captioned HCP has been filed; that the captioned HCP has been presented in this Court on 16.06.2023.

### 3. Issue notice

4. Mr.E.Raj Thilak, learned Additional Government Pleader accepts notice for respondents 1 and 2 (official respondents). Mr.Balaji Thirumoorthy with address for service at No.374, New Additional Law Chambers, High Court Buildings, Chennai-600 104, accepts notice for third respondent.

5. Learned Prosecutor submitted, on instructions, (instructed by Mr.K.R.Raja Bharathi, Special Sub-Inspector of Police, E3 Saravanapatti Police Station, Coimbatore) that the absentee has given a police complaint dated 16.06.2023 and that this complaint is addressed to Additional



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Superintendent of Police, Coimbatore *inter alia* alleging that he fears for life qua petitioner. A copy of 16.06.2023 complaint seeking protection for his life has been placed before us.

6. Learned counsel, who accepted notice for third respondent reiterated the complaint given by the absentee. On the contrary, learned counsel for petitioner reiterated 10.06.2023 complaint given by petitioner.

7. Learned Prosecutor submits that preliminary investigation, which was kick started pursuant to aforementioned complaint reveals that it comes across tremors within a family i.e., family dispute as between members of one family and the epicenter appears to be a piece of land i.e., said land.

8. In the light of the narrative thus far, we find that it is not a case which falls within the habeas jurisprudence perimeter as *prima facie* there is no illegal detention or unlawful custody. We deem it appropriate to direct learned Prosecutor to ensure that jurisdictional police produce the absentee before jurisdictional Magistrate (we are informed that jurisdictional



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Magistrate is Judicial Magistrate No.II, Coimbatore) with adequate police security as he has given a complaint saying that he fears for life with prior intimation to the petitioner so that the petitioner can also be present before jurisdictional Magistrate. Let the Jurisdictional Magistrate record statements and proceed in accordance with law.

9. As regards two complaints given by the petitioner and absentee dated 10.06.2023 and 16.06.2023, let the investigation proceed on its own merits and in accordance with law.

10. Though obvious, we make it clear that we have not expressed any view or opinion on the merits of the rival submissions as between the petitioner and third respondent. In other words, all questions are left open to be canvassed in a suitable Forum / Court, if there are collateral or connected proceedings in any other Court / Forum. We also make it clear that such Court / Forum shall deal with the matter uninfluenced by this order which has been made for the limited purpose of giving a closure to HCP legal drill on hand.

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

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11. In the light of the narrative thus far, captioned HCP is disposed of as closed albeit with the aforementioned directives. There shall be no order as to costs.

(M.S.,J.)

(R.S.V.,J.)

23.06.2023

Index : Yes / No

Speaking / Non-speaking order

Neutral Citation : Yes / No

mk

To

1. The Commissioner of Police  
Office of the Commissioner of Police  
Coimbatore City.
2. The Inspector of Police  
Saravanampatti Police Station  
Coimbatore District.
3. The Public Prosecutor  
High Court, Madras.

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