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H.C.P.No.1105 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.06.2023

Coram

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

H.C.P.No.1105 of 2023

Rajendra Nayak

.. Petitioner

vs

1.State rep. By its
The Inspector of Police,
Thiruvanmiyur Police Station,
Adyar, Chennai.

2.Saravanan

.. Respondents

Petition filed under Article 226 of the Constitution of India
praying for issuance of a writ of habeas corpus to direct the first
respondent to produce the body of the petitioner's wife XXX,
W/o.Rajendra Nayak, aged about 37 years before this Court and
set her at liberty.

For Petitioner : Mr.T.Arockia Dass
for M/s.Dass and Viswa
Associates

For Respondents : Mr.E.Raj Thilak,
Additional Public Prosecutor
for R1



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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 brevity, convenience and clarity).

2. Factual matrix in a nut shell is that the petitioner's spouse 'XXX' (we shall be referring the petitioner's spouse as 'absentee' for the sake of convenience and clarity), aged 37 years and mother of two major children (both sons) {according to petitioner} is missing from 07.06.2023; that the petitioner lodged a police complaint on 12.06.2023 with Thiruvannamiyur police station and the same has been taken on file vide Crime No.233 of 2023 (woman missing); that the marriage of petitioner and absentee was solemnised on 25.05.2001; that the petitioner and absentee are blessed with two sons (both majors) from the wedlock; that apprehension is that the absentee may have been illegally detained by second respondent (to be noted second respondent is a private respondent); that captioned HCP has been presented/filed in this Court on 20.06.2023.



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3. Mr.T. Arockia Dass of M/s.Dass and Viswa Associates (Law Firm) for petitioner, petitioner, Mr.E.Raj Thilak, learned State Additional Public Prosecutor instructed by Ms.P.Karthiyayani, Grade I Police Constable of J6 Thiruvanmiyur Police Station, Chennai and Mr.V.Rajagopalan, Sub Inspector of Police, J-6 Thiruvanmiyur Police Station, Chennai, the absentee and younger son of petitioner and absentee are present in Court.

4. We had an interaction with the absentee and thereafter the absentee had interaction with her younger son and petitioner.

5. From the aforementioned interaction and submissions, the following position emerges:

5.1 It is not a case of illegal detention as absentee says that there was some marital discord with the petitioner and therefore she had stayed away from the petitioner voluntarily i.e., on her own volition;

5.2 The allegation in the HCP affidavit regarding relationship between absentee and second respondent is denied by the absentee. We make it clear that we refrain ourselves from expressing any opinion on this aspect of the matter;

5.3 As it is not a case of illegal detention or unlawful custody, we deem it appropriate to drop the curtains on the captioned HCP albeit preserving all the



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rights and contentions of petitioner, absentee and second respondent for being canvassed in any connected/collateral proceedings in any Court/Fora or Authority. If there are proceedings which are connected/collateral qua captioned HCP before any other Court/Fora/Authority, the same shall be decided by the Court/Fora/Authority on its own merits and in accordance with law but this order will neither be an impediment nor an impetus in such collateral/connected proceedings as this order has been made for the limited purpose of habeas corpus legal drill on hand;

5.4 To be noted, in the light of the rights and contentions of all parties concerned including second respondent being preserved we deem it appropriate to dispose of the captioned HCP without notice to the second respondent. In other words, this order does not impact the rights of the second respondent in any manner, they stand preserved and notice to second respondent is not necessary for disposal of captioned HCP.

6. The sequitur is, captioned HCP is disposed of as closed albeit preserving the rights of the parties and all concerned in the aforesaid manner.

(M.S.,J.) (R.S.V.,J.)
27.06.2023

Index : Yes
Neutral Citation : Yes
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To

- 1.The Inspector of Police,
Thiruvanmiyur Police Station,
Adyar, Chennai.
- 2.The Public Prosecutor,
High Court, Madras.



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

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