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H.C.P.No.1261 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.07.2023

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

H.C.P.No.1261 of 2023

C.Rajendiran

.. Petitioner

Vs

1.The Superintendent of Police,
Kancheepuram District,
Kancheepuram.

2.The Inspector of Police,
Salavakkam Police Station,
Kancheepuram District.

3.Jayakumar

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of habeas corpus to direct the second respondent herein to produce the petitioner's daughter Nirosha (aged 21 years) before this Court from the custody of the third respondent and set her at liberty.

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For Petitioner : Mr.N.Ramachandran
For Respondents : Mr.E.Raj Thilak
Additional Public Prosecutor
for R1 & R2

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).

2. Factual matrix in a nutshell is that the 'petitioner's daughter Nirosha' (hereinafter 'absentee' for the sake of convenience and clarity), born on 29.06.2002, studied upto 12th standard was missing from the night/morning of 09.04.2023/10.04.2023; that the petitioner and his wife made enquiries with relatives; that the petitioner thereafter gave a complaint in the jurisdictional police station viz., Salavakkam Police Station; that the petitioner's complaint was taken on file as Crime No.122 of 2023 (woman missing); that according to petitioner, the absentee may be in illegal custody of third respondent (to be noted, third respondent is a private respondent); that captioned HCP has been filed in this Court on 07.07.2023 in such circumstances.

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3. Issue notice.

4. Mr.E.Raj Thilak, learned State Additional Public Prosecutor accepted notice for respondents 1 and 2 (official respondents).

5. Learned Prosecutor submitted on instructions (instructed by Thiru.T.Giri, Sub Inspector of Police, D5 Salavakkam Police Station, Kanchipuram District and Tmt.G.Sofiya Josphine, Police Constable, D5 Salavakkam Police Station, Kanchipuram District) that the absentee is present in Court and she says that she has left home i.e., petitioner's home to be with the third respondent on her own volition and voluntarily. Therefore, the matter was passed over for being called in the post-lunch session so that the absentee can speak with the petitioner.

6. In the second call in the afternoon session, petitioner, petitioner's spouse, petitioner's counsel Mr.N.Ramachandran, Mr.E.Raj Thilak, learned State Additional Public Prosecutor for respondents 1 and 2 and absentee were present in Court. This Court was informed that the absentee had a chat with the petitioner and his spouse (absentee's parents).

7. We had an interaction with the absentee. In this interaction,



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absentee was very clear that she is not in illegal detention or unlawful custody of third respondent. On the contrary, absentee submitted that she has voluntarily gone over to the third respondent's place and she wants to stay with the third respondent. It was pointed out by learned counsel for petitioner that the third respondent is married and he has children but we do not want to elaborate on the same for three reasons. One is the limited scope of habeas drill i.e., the question is whether there is illegal custody, second reason is we understand from our interaction that the absentee is aware that the third respondent is married and has children. The third reason is absentee is clearly a major who is 21 years old. To be noted, her date of birth is 29.06.2002.

8. In the light of the narrative thus far, we drop the curtains on the captioned HCP as it is not a case of illegal detention or unlawful custody but we make it clear that all the rights and contentions of the petitioner, third respondent (who is not before us) and the absentee are preserved for being raised in any other collateral or connected Proceedings, if there are any.

9. Captioned HCP is disposed of as closed albeit preserving the



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rights of all the parties concerned in the aforesaid manner.

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(M.S.,J.) (R.S.V.,J.)
17.07.2023

Index : Yes/No
Neutral Citation : Yes/No
mmi

To

- 1.The Superintendent of Police,
Kancheepuram District,
Kancheepuram.
- 2.The Inspector of Police,
Salavakkam Police Station,
Kancheepuram District.
- 3.The Public Prosecutor
High Court, Madras.

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

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