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HCP No.1267 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.07.2023

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR
and

THE HONOURABLE MR.JUSTICE R.SAKTHIVEL

H.C.P.No.1267 of 2023

Govindharan
S/o.Sulli

.. Petitioner

Vs.

1. The District Superintendent of Police
Kancheepuram District
Kancheepuram.
2. The Inspector of Police
B-4, Baluchetty Chathiram Police Station
Kancheepuram 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 to produce the petitioner's wife namely, Sindhumathi, aged about 32 years before this Hon'ble Court and set her at liberty.

For Petitioner	:	Mr.H.Manojin
For Respondents	:	Mr.E.Raj Thilak Additional Public Prosecutor



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ORDER

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[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. The central theme of the captioned HCP is, petitioner's wife one 'Sindhumathi, aged 32 years' [hereinafter 'absentee' for the sake of convenience and clarity] is missing from 23.06.2023, a complaint in this regard has been lodged by the petitioner with jurisdictional police (second respondent police station) on 24.06.2023, the same has been taken on record as Crime No.406 of 2023 dated 24.06.2023 on the file of second respondent police station and the absentee has not been located as yet.

3. Issue notice.

4. Mr.E.Raj Thilak, learned Additional Public Prosecutor accepts notice for both respondents and submits on instructions (instructed by Mr.K.V.Balamurugan, Inspector of Police, Baluchetty Chathiram Police



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Station) that pursuant to the aforementioned complaint dated 24.06.2023 (Crime No.406 of 2023), investigation was kick started, a special team has been formed, a Special Sub-Inspector of Police is heading the team, investigation thus far does not show any trappings of illegal custody or unlawful detention and the jurisdictional police is hopeful of locating the absentee in twelve weeks from today i.e., by 09.10.2023. Learned Prosecutor, on instructions, submits that preliminary investigation reveals that the absentee has left home on her own, she is now in West Bengal, she has made a video call to her sister and voice call to the petitioner in this regard.

5. Be that as it may, learned counsel on record for petitioner, on instructions, submits that there is yet a possibility of illegal detention. To be noted, no private individual has been arrayed as respondent in the captioned HCP.

6. Let the investigation proceed in accordance with law uninfluenced by this order and let the investigation be carried to its logical end.



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7. On the absentee being located, let the absentee be produced before the jurisdictional Magistrate to record statements with prior intimation to the petitioner (absentee's husband). We are informed that the jurisdictional Magistrate is Judicial Magistrate, Kancheepuram. On statements of all concerned being recorded by jurisdictional Magistrate, if it comes to light that the averment of the petitioner that there is a possibility of illegal detention is incorrect, it is open to the authorities to proceed against the petitioner in accordance with law. Axiomatically, if it turns to be a case of illegal detention the respondents shall proceed against all concerned in accordance with law. We make it clear that all the rights of absentee and anyone else concerned with this case are preserved as captioned HCP is disposed of in the Admission Board albeit with notice to official respondents.

8. If there is undue delay or if there is any other development, we make it clear that all the rights and contentions of the petitioner, absentee or anyone concerned for the absentee are preserved and left open for being raised in collateral or similar proceedings. Further we make it clear that it is open to the petitioner to come back to this Court not only with a similar but even same prayer if the need arises / if there are other developments. All the rights of all concerned are preserved.



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9. Captioned HCP is disposed of with the aforementioned observations
/ directives.

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

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

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To

1. The District Superintendent of Police
Kancheepuram District
Kancheepuram.
2. The Inspector of Police
B-4, Baluchetty Chathiram 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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