



H.C.P.No.1354 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.07.2023

CORAM

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

H.C.P.No.1354 of 2023

Gandhimathi

.. Petitioner

Vs

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

2.The Inspector of Police,
Sankari Police Station,
Salem District.

3.Sandhiya
4.Duraisamy
5.Kokila
6.Kuppaiyee

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of habeas corpus directing the respondents 1 and 2 to produce the petitioner's husband viz., Shanmugam, son of Pattappan, who is aged about 32 years, before this Court and set him at liberty from the hands / illegal custody of respondents 3 to 6.

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For Petitioner : Mr.M.Elango
For Respondents : Mr.E.Raj Thilak,
Additional Public Prosecutor
for R1 and R2

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. The central theme of the captioned HCP is, petitioner's spouse Shanmugam, son of Pattappan, aged about 32 years [hereinafter 'absentee' for the sake of convenience and clarity] is missing from 04.06.2023, a complaint in this regard has been lodged by the petitioner with jurisdictional police (second respondent) and CSR No.228 of 2023 has been issued and the absentee has not been located as yet but captioned HCP has been filed in this Court on 17.07.2023 on the apprehension that absentee may be in illegal custody of respondents 3 to 6.



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3. The petitioner earlier filed Habeas Corpus Petition being H.C.P. No.1203 of 2023 and the same was withdrawn on 11.07.2023 as the wife of third respondent therein had not been arrayed as party respondent. The rights of the petitioner were preserved. Pursuant to such preservation of rights captioned HCP has been filed.

4. Mr.M.Elango, learned counsel on record for petitioner submits that the petitioner and absentee who have been married for about three years now have 1 ½ year old male child and the male child is now with the petitioner (mother).

5. Issue notice to official respondents.

6. Mr.E.Raj Thilak, learned State Additional Public Prosecutor accepts notice for official respondents and submits on instructions (instructed by Ms.Devi, Inspector of Police, Sankari Police Station, Salem District) that pursuant to the aforementioned complaint dated 04.06.2023 (CSR No.228 of 2023), investigation was kick started, a special team has been formed, investigation thus far does not show any trappings of illegal custody or unlawful detention and the



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jurisdictional police is hopeful of locating the absentee in six weeks from today i.e., by 07.09.2023.

7. Let the investigation proceed in accordance with law uninfluenced by this HCP order.

8. On the absentee being located, let the absentee be produced before the jurisdictional Magistrate with prior intimation to the HCP petitioner (absentee's wife). The jurisdictional Magistrate to proceed in accordance with law. We are informed that the jurisdictional Magistrate is Judicial Magistrate I, Sankari. We make it clear that all the rights of respondents 3 to 6 (private respondents) 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.

9. 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 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



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only with a similar but even same prayer if there are other developments and if the need arises. All the rights of all concerned are preserved.

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

(M.S.,J.) **(R.S.V.,J.)**
26.07.2023

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

To

- 1.The Superintendent of Police,
Salem, Salem District.
- 2.The Inspector of Police,
Sankari Police Station,
Salem District.
- 3.The Judicial Magistrate I,
Sankari.
- 4.The Public Prosecutor
High Court, Madras.



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and
R.SAKTHIVEL, J.,**

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