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H.C.P.No.1404 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.07.2023

CORAM

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

H.C.P.No.1404 of 2023

Deepan Chakkaravarthy

.. Petitioner

Vs

1.The Superintendent of Police,
O/o. Superintendent of Police,
Mayiladuthurai,
Mayiladuthurai District.

2.The Inspector of Police,
Sembanarkoil Police Station,
Mayiladuthurai District.

3.Mukilan

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of habeas corpus directing the first and second respondents to produce petitioner's younger sister XXX, aged about 23 years, who is kept in illegal custody by the third respondent before this Court and set her at liberty.



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For Petitioner : Mr.U.Kathiravan
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 younger sister 'XXX' [hereinafter 'absentee' for the sake of convenience and clarity, to be noted, name is masked] is missing from 29.06.2023, a complaint in this regard has been lodged by the petitioner with jurisdictional police (second respondent), the same has been taken on record as Crime No.268 of 2023 on the file of second respondent and the absentee has not been located as yet but captioned HCP has been filed in this Court on 24.07.2023 on the apprehension that absentee may be in illegal custody of third respondent.



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3. Issue notice to official respondents.

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4. Mr.E.Raj Thilak, learned State Additional Public Prosecutor accepts notice for official respondents and submits on instructions (instructed by Mr.S.Gunasekaran, Inspector of Police, Sembanarkoil Police Station, Mayiladuthurai District) that pursuant to the aforementioned complaint dated 02.07.2023 (Crime No.268 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 jurisdictional police is hopeful of locating the absentee in four weeks from today i.e., by 25.08.2023. To be noted, learned Prosecutor submitted that it comes to light that the absentee is married to third respondent but we do not express any opinion on the same at this juncture. It is also submitted that another complaint vide Crime No.19 of 2023 on the file of All Women Police Station, Mayiladuthurai is pending against third respondent and the same has been given by another woman, alleging marriage by suppressing the earlier marriage.

5. Let the investigation proceed in accordance with law

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uninfluenced by this HCP order.

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6. On the absentee being located, let the absentee be produced before the jurisdictional Magistrate with prior intimation to the HCP petitioner (absentee's brother). The jurisdictional Magistrate is requested to record statements and proceed in accordance with law. We are informed that the jurisdictional Magistrate is District Munsif cum Judicial Magistrate, Tharangampadi. We make it clear that all the rights of third respondent (private respondent) 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.

7. 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 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.

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8. 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.)
28.07.2023

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

To

- 1.The Superintendent of Police,
O/o. Superintendent of Police,
Mayiladuthurai,
Mayiladuthurai District.
- 2.The Inspector of Police,
Sembanarkoil Police Station,
Mayiladuthurai District.
- 3.The District Munsif cum Judicial Magistrate,
Tharangampadi.
- 4.The Public Prosecutor
High Court, Madras.



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and
R.SAKTHIVEL, J.,**

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