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H.C.P.No.1506 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.08.2023

Coram

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

H.C.P.No.1506 of 2023

M.Mashudkhan

.. Petitioner

VS

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

2.The Inspector of Police,
SIPCOT Police Station,
Hosur, Krishnagiri District.

3.Hari
Respondents

..

Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of habeas corpus to direct the respondents herein to produce the petitioner's wife Jarina (aged about 43 years) before this Court and set her at liberty.

For Petitioner	:	Dr.G.Babu
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



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clarity].

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2. The central theme of the captioned HCP is, petitioner's spouse Ms.Jarina [hereinafter 'absentee' for the sake of convenience and clarity] is missing from 10.04.2023, 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.97 of 2023 on the file of second respondent, the absentee has since been located and absentee left with the petitioner. Thereafter, the absentee is again missing from 13.06.2023 onwards and the petitioner lodged a complaint in this regard on 03.07.2023 with the second respondent, however, the absentee has not been located as yet. Fearing possible unlawful custody of absentee qua third respondent captioned HCP has been filed in this Court on 26.07.2023.

3. Issue notice to official respondents.

4. Mr.E.Raj Thilak, learned State Additional Public Prosecutor accepts notice for official respondents and submits on instructions (instructed by Mr.Arockiaraj, Special Sub Inspector of Police, SIPCOT Police Station) that this is not the first episode and there have been such episodes earlier. However, Dr.G.Babu, learned



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counsel on record for petitioner submits that there was only one earlier episode but it may not really be necessary to express any opinion or view on this dispute and we deem it appropriate to leave it at that as the matter on hand is a habeas legal drill. To be noted, as regards the earlier episode, there is no dispute that petitioner's spouse Ms.Jarina was missing in April of 2023, the petitioner lodged a complaint with the second respondent police (jurisdictional police) vide Crime No.97 of 2023 dated 11.04.2023, the second respondent jurisdictional police located the absentee on 04.06.2023 and after being brought to the police station, she left with the petitioner. Learned Prosecutor further submits that 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 six weeks from today i.e., by 20.09.2023.

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

6. On the absentee being located, let the absentee be produced before the jurisdictional Magistrate with prior intimation



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to the petitioner (absentee's husband) and third respondent. The jurisdictional Magistrate to proceed in accordance with law. We are informed that the jurisdictional Magistrate is Judicial Magistrate - II, Hosur. 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, connected and / 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.

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.)
09.08.2023

Index : Yes/No
Neutral Citation : Yes/No



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To

- 1.The Superintendent of Police,
Krishnagiri, Krishnagiri District.
- 2.The Inspector of Police,
SIPCOT Police Station,
Hosur, Krishnagiri District.
- 3.The Judicial Magistrate – II,
Hosur.
- 4.The Public Prosecutor,
High Court, Madras.



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

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