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H.C.P.No.1513 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.08.2023

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

H.C.P.No.1513 of 2023

C.Karthikeyan .. Petitioner

VS

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

2.The Inspector of Police,
Tiruchengode Rural Police Station,
Tiruchengode, Namakkal District.

3.Sumathi

4.Subramani

Respondents

..

Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of habeas corpus to direct the first and second respondents herein to produce the body or person of detenu's/petitioner's wife namely Ms.Srini Shanmugasundaram, daughter of Shanmugasundaram, aged about 26 years before this Court and set her at liberty.

For Petitioner : Mr.M.Dinesh

For Respondents : Mr.E.Raj Thilak,
Additional Public Prosecutor
for R1 and R2
Mr.R.Thamaraiselvan
for R3 and R4



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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. Factual matrix in a nut shell is that the petitioner says that he got married to one Srinithi Shanmugasundaram (mentioned as Srinithi Shanmugasundaram in the affidavit and Srini Shanmugasundaram in the petition prayer); that this 'Srinithi Shanmugasundaram/Srini Shanmugasundaram' shall hereinafter be referred to as 'absentee' for the sake of convenience and clarity; that according to the petitioner he married the absentee on 30.10.2022 in a Sivan temple in Yercaud (Salem District); that according to petitioner, the marriage was registered on 04.11.2022 in a registration office in Coimbatore; that it is petitioner's case that the absentee's parents did not accept the marriage, they called the petitioner and absentee over to Karur on 19.07.2023 in the pretext of a spiritual ceremony but thereafter the absentee is missing from 25.07.2023; that petitioner has lodged a complaint with the jurisdictional police (second respondent) on 01.08.2023;



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that it is the apprehension of the petitioner that absentee is in unlawful custody/illegal detention of 'respondents 3 and 4' (absentee's 'mother and maternal uncle respectively'); that under such circumstances, captioned HCP has been filed in this Court on 01.08.2023.

3. Today, Mr.M.Dinesh, learned counsel for petitioner is before us. Learned counsel for petitioner reiterates the aforementioned averments.

4. Issue notice.

5. Mr.E.Raj Thilak, learned State Additional Public Prosecutor accepts notice for respondents 1 and 2/official respondents (instructed by Mr.M.Vishwanathan, Special Sub Inspector of Police, Thiruchengode Rural Police Station).

6. Mr.R.Thamaraiselvan (Enrolment No.2816/2006), learned counsel {with address for service at No.223, Law Chambers, High Court, Chennai } accepted notice for respondents 3 and 4. The position that Mr.R.Thamaraiselvan, learned counsel is representing respondents 3 and 4 is recorded without insisting on the formality of filing of vakalatnama as learned counsel is present



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in Court. However, it is open to the learned counsel to file vakalatnama between now and issue of certified copy though captioned HCP is being disposed of in and by this order. Registry shall take on record the vakalatnama if otherwise in order.

7. In the light of the nature of the matter, with the consent of learned counsel on both sides and the learned Prosecutor, the main HCP was taken up.

8. Learned Prosecutor submitted that the aforementioned complaint is being acted upon. Be that as it may, learned counsel for respondents 3 and 4 submits that the absentee is with respondents 3 and 4 at the address given in the cause title viz., No.2/208, Main Road, Solasiramani Post, Paramathi Velur Taluk, Solasiramani, Namakkal District. It is submitted by learned counsel for respondents 3 and 4 that absentee has not been illegally detained by respondents 3 and 4 but this submission is subjected to contestation by learned counsel for petitioner.

9. Therefore, we deem it appropriate to direct the second respondent to produce the absentee before the jurisdictional Magistrate (we are informed that jurisdictional magistrate is



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Judicial Magistrate, Thiruchengode) in the ensuing fortnight with advance intimation to the petitioner as well as respondents 3 and 4. Jurisdictional Magistrate is requested to record the statements of all concerned and proceed in accordance with law. After recording of the statements, the complaint shall be dealt with on its own merits and in accordance with law. We make it clear that all the rights and contentions of the petitioner, absentee, respondents 3 and 4 are preserved for any other proceedings which are collateral or connected in any other Court/s/Forum/Fora/Authority/Authorities.

10. We drop the curtains on the captioned HCP and the captioned HCP is disposed of as closed albeit with the aforementioned observations.

(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,
Namakkal, Namakkal District.
- 2.The Inspector of Police,
Thiruchengode Rural Police Station,
Thiruchengode, Namakkal District.
- 3.The Judicial Magistrate, Thiruchengode.



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4.The Public Prosecutor, High Court, Madras.

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

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