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H.C.P.No.1643 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.09.2023

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

H.C.P.No.1643 of 2023

Ponraj

.. Petitioner

Vs.

1.The Commissioner of Police,
Tambaram,
Tamil Nadu 600 119.

2.The Inspector of Police,
T-15 Police Station,
Kannaginagar,
Chennai – 600 097.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of habeas corpus directing the 1st respondent to produce a body or person of petitioner's sister Mrs.Maheswari, W/o.Vinothraj aged about 25 years before this Court and set her liberty.

For Petitioner : Ms.A.Akila Rani

For Respondents : Mr.A.Gokulakrishnan

Additional Public Prosecutor



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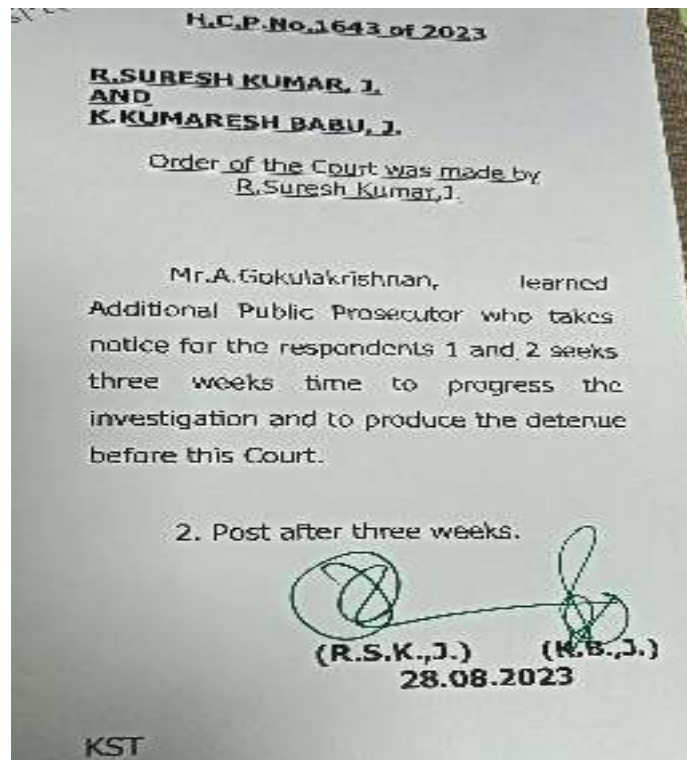
ORDER

[Order of the Court was made by M.SUNDAR, J.]

Captioned 'Habeas Corpus Petition' ['HCP' for the sake of brevity]

has been filed in this Court on 14.08.2023.

2. When the captioned HCP was listed before another Hon'ble Co-ordinate Division Bench of this Court for admission on 28.08.2023 the following proceedings / order was made:





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3. Today, captioned matter was mentioned saying that petitioner's sister Ms.Maheswari [hereinafter petitioner's sister shall be referred to as 'absentee' for the sake of convenience] has since been located and that the second respondent is producing her before us. Therefore the captioned HCP is taken up by way of an Additional List.

4. When the matter was taken up Ms.A.Akila Rani, learned counsel on record for petitioner, petitioner Mr.Ponraj, Mr.A.Gokulakrishnan, learned State Additional Public Prosecutor for both respondents instructed by Mr.S.R.G.Thayal , Inspector of Police, T-15 Kannagi Nagar Police Station and the absentee are before us.

5. Factual matrix in a nut shell, i.e., facts imperative for appreciating this order are that the absentee married one Thiru.Vinothraj working in Abu Dhabi; that the marriage was about six years ago; that absentee and Thiru.Vinothraj do not have a child from the wedlock; that



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absentee is undergoing fertility treatment; that absentee came to India four months ago; that absentee was staying with petitioner [her younger brother] in the address mentioned in the cause title; that absentee is missing from 26.07.2023; that the petitioner lodged a complaint with the jurisdictional police station, i.e., T-15 Kannagi Nagar Police Station, Pallikaranai; that the complaint was taken on file vide F.I.R.No.317 dated 27.07.2023 (woman missing); that the second respondent kick started investigation pursuant to the F.I.R.; that absentee was located in Mettupalayam in Coimbatore District; that the absentee has now been produced before us.

6. This Bench had an interaction with the absentee and the petitioner one after the other and the following points emerged:

(i) Absentee had gone to Mettupalayam on her own will / volition, voluntarily and she is staying with one Thiru.Naganathan;

(ii) Absentee wants to continue to stay in Mettupalayam (Coimbatore District) with Thiru.Naganathan;



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(iii) petitioner reiterated his statement that absentee had

left home on 26.07.2023 without intimation;

(iv) The absentee is a major, as her date of birth is

18.12.1995 (27 years old).

7. Captioned matter being a habeas legal drill, we are concerned with the question as to whether absentee has been illegally detained or unlawfully confined by anyone. From the narrative thus far, it is clear that this is not a case of illegal detention or unlawful custody as the absentee who is a major (27 years of age) has left her brother's home and gone to Mettupalayam (Coimbatore District) on her volition, voluntarily and staying with one Thiru.Naganathan there.

8. As this is not a case of illegal detention or unlawful custody, we drop the curtains on the captioned HCP but we make it clear that all the rights and contentions of the petitioner, absentee, absentee's spouse Thiru.Vinothraj or anyone concerned with the matter are preserved for any other collateral or



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connected proceedings in other Court/s/Forum/Fora/Authority/Authorities. If there are any other connected / collateral proceedings before the other Court/s/Forum/Fora/Authority/Authorities, the same will be dealt with on its own merits and in accordance with law by the Court/s/Forum/Fora/Authority/Authorities untrammelled by this order, i.e., untrammelled by closure of captioned HCP, as this is an order made for the limited purpose for dropping out the curtains qua captioned HCP as it is a habeas legal drill.

9. Captioned HCP is disposed of as closed albeit with the aforementioned observations and preservation of rights in the aforesaid manner.

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

13.09.2023

Index : Yes/No

Speaking order/Non speaking order

Neutral Citation : Yes/No

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3.The Public Prosecutor
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