



WEB COPY



HCP No.1684 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.08.2023

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR
and

THE HONOURABLE MR.JUSTICE R.SAKTHIVEL

H.C.P.No.1684 of 2023

N.Malarvizhi

.. Petitioner

Vs.

1. The Commissioner of Police
Office of the Salem City Police
Salem City
2. The Deputy Commissioner of Police
Office of the Salem City Police
Salem City
3. State represented by
The Inspector of Police
Pallapatty Police Station
Salem City
4. The Social Welfare Officer
Office of the Combine Collectorate Building
Salem District
5. Deepak
6. N.Prema



HCP No.1684 of 2023

7. N.Nanthini

..Respondents

WEB COPY

Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of habeas corpus to direct the respondent No.3 herein to produce the petitioner's father namely S.Narayanan, aged about 59 years from the custody of Respondents 5 to 7 before this Court and set him at liberty forthwith.

For Petitioner : Mr.N.Vijaya Basker
of M/s.Law Vision (Law Firm)

For Respondents 1 to 3 : Mr.E.Raj Thilak
Additional Public Prosecutor

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 nutshell is that the petitioner is second daughter of one 'Thiru.S.Narayanan' [hereinafter 'absentee' for the sake of convenience and clarity]; that petitioner has married one Thiru. Sivaprakasam; that her marriage was in the year 2010; that petitioner is living with her spouse in Delhi; that the petitioner has come down to Salem and is residing in the address given in the cause title; that this address in the cause title is petitioner's paternal grandmother's residence (absentee's mother); that it is



HCP No.1684 of 2023

the case of the petitioner that Respondents 6 and 7 are petitioner's elder and younger siblings (sisters) respectively; that the absentee (according to the petitioner) had purchased two house sites in Salem from income generated by doing milk vending business; that the absentee has also purchased a new house in Kannankurichi, Salem worth about 1½ crores; that it may not be necessary to be detained further on this immovable properties aspect of the matter as this Court is concerned with the habeas legal drill on hand; that absentee has sent a complaint to the Inspector of Police, Kannankurichi Police Station, Salem City *inter alia* making certain allegations about Respondents 6 and 7; that thereafter the petitioner lodged a complaint dated 22.08.2023 with Respondents 1 to 3 *inter alia* saying that absentee is missing and that absentee is in unlawful custody of Respondents 5 to 7; that Respondent No.5 has been described as a recovery foundation; that certain photographs said to have been taken by the petitioner, which according to the petitioner demonstrate certain activities of the fifth respondent, has also been annexed to the typed-set of papers; that under such circumstances, captioned HCP has been filed in this Court on 24.08.2023.

3. Today, Mr.N.Vijaya Baskar, learned counsel of M/s.Law Vision (Law Firm), counsel on record for the petitioner and petitioner are before us.



HCP No.1684 of 2023

WEB COPY

4. Adverting to the aforementioned facts, learned counsel submitted that as regards habeas corpus plea, apprehension is that the absentee is in unlawful custody of private respondents 5 to 7.

5. Issue notice to official respondents.

6. Mr.E.Raj Thilak, learned State Additional Public Prosecutor, State of Tamil Nadu accepted notice for Respondents 1 to 3 (official respondents). Learned Prosecutor on instructions (instructed by Mr.J.Surya, Sub-Inspector of Police, Pallipatti Police Station) submitted that the absentee is present in Court and absentee was located in the fifth respondent's foundation. Learned Prosecutor submitted that absentee's mother Ms.Chellammal (petitioner's paternal grandmother) is also present in Court.

7. This Bench had an interaction with the absentee and the following points emerge:

- i) the absentee was staying with his friend in Kannankurichi;
- ii) there appears to be certain immovable properties



HCP No.1684 of 2023

WEB COPY

disputes within the family;

iii) that the petitioner, Respondents 6 and 7 are three daughters of the absentee;

iv) that absentee says that he was assaulted and manhandled and taken to 5th respondent's foundation but we make it clear that we are not expressing any view or opinion on this as it is for the jurisdictional police to investigate the matter on its own merits and in accordance with law;

v) absentee states that he would like to go and stay with petitioner and his mother who is petitioner's paternal grandmother;

vi) absentee is 60 years old and where and with whom he would like to stay is entirely his choice.

8. The narrative thus far draws the curtains on the habeas legal drill on hand as we are concerned with unlawful custody/illegal detention in a habeas legal drill. While we say that the absentee is at liberty to go with the petitioner and his mother, we make it clear that the third respondent as well as Inspector of Police, Kannankurichi Police Station shall investigate the



HCP No.1684 of 2023

aforementioned complaints on their own merits and in accordance with law.

Learned counsel for petitioner, on instructions from the petitioner, submits that the petitioner would cooperate with the investigation as and when required.

9. Be that as it may, as the captioned HCP is being disposed of in the Admission Board and as respondents 5 to 7 are not before us, we make it clear that all the rights and contentions of the respondents 5 to 7 are preserved. We express no opinion on the allegations and it is open to Respondents 5 to 7 to take any defence or stand that is available to them. Likewise we hasten to add that the rights and contentions of the petitioner, absentee, absentee's mother and all others concerned with this matter are also preserved for being raised in a appropriate Court/s/Forum/Fora/ Authority/Authorities. If any other collateral or connected proceedings are initiated in any Court/s/Forum/Fora/ Authority/Authorities in the days to come, we make it clear that rights of all the parties are preserved.



HCP No.1684 of 2023

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.)
30.08.2023

Index : Yes / No

Speaking / Non-speaking order

Neutral Citation : Yes / No

gpa

P.S: Though captioned HCP is disposed of, we deem it appropriate to requisition a report i.e.,an Action Taken Report (ATR) from the second respondent which shall be placed before us in the next listing.

List a fortnight hence. List on 18.09.2023 under the caption 'FOR REPORT'.

To

1. The Commissioner of Police
Office of the Salem City Police
Salem City
2. The Deputy Commissioner of Police
Office of the Salem City Police
Salem City
3. State represented by
The Inspector of Police
Pallapatty Police Station
Salem City
4. The Social Welfare Officer
Office of the Combine Collectorate Building
Salem District
5. The Public Prosecutor
High Court, Madras.



WEB COPY



HCP No.1684 of 2023

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

gpa

H.C.P.No.1684 of 2023

30.08.2023