



H.C.P.NO.1697 OF 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.09.2023

CORAM

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

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Akilan
S/o.Kaliyamoorthi

... Petitioner

Vs.

1.The Superintendent of Police
District Superintendent of Police Office
Karaikal District,
Pondicherry Union Territory.

2.The Inspector of Police
Thirunallar Police Station
Karaikal District,
Pondicherry.

3.Iyyappan
S/o. Anbazhagan

4.Anbazhagan
S/o. Mani

... Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Habeas Corpus to direct the second respondent to bring and produce the detenu by named A.Anbzhaki aged about 25 years W/o. Akilan, now under illegal detention of the third and fourth respondents and set her at liberty.

For Petitioner : Mr.T.Elumalai

For Respondents : Mr.M.V.Ramachandra Murthy
1 and 2 Additional Public Prosecutor (Puducherry)
Assisted by Mr.M.Thamizhamani
Advocate, Pondicherry

ORDER

[Order of the Court was made by **R.SAKTHIVEL, J.**]

This 'Habeas Corpus Petition' [hereinafter 'HCP' for the sake of convenience and clarity] has been filed by the petitioner praying to direct the second respondent to bring and produce the detenue 'Mrs.A.Anbzhaki, aged 25 years' [hereinafter referred to as 'absentee' for the sake of convenience and clarity] who is said to be under illegal detention of third and fourth respondents and set her at liberty.

2.The case of the petitioner is that the petitioner belongs to Scheduled Caste and the absentee belongs to Most Backward Class; that the



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petitioner and absentee loved each other and their marriage was solemnized on 19.10.2020; that after marriage petitioner and absentee lived together at Tiruppur District; that they returned back to their native village at Thirunallar, Karaikkal; that they have no child born out of the marriage; that absentee went to her parents house on 21.04.2023; that the absentee did not return to the petitioner's home; that the petitioner and his sister's husband went to the absentee's parents house to see the absentee; that the absentee's father (R4) and brother (R3) have not allowed the petitioner and his sister's husband to see the absentee instead they have tried to attack the petitioner. The petitioner apprehends that the absentee is in unlawful / illegal custody of the respondents 3 and 4. Hence this petition.

3.Reiterating the petition averments, learned counsel for the petitioner has submitted that absentee may be in unlawful or illegal custody of her parents. Accordingly, he prays to allow the petition.

4.Issue notice to the respondents.



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5.Mr.M.V.Ramachandra Murthy, learned Additional Public Prosecutor (Puducherry) takes notice on behalf of the respondents 1 and 2 (official respondents).

6.During the hearing, the petitioner, petitioner's counsel on record, counsel for the official respondents and the absentee are before us.

7.Mr.M.V.Ramachandra Murthy, learned Additional Public Prosecutor (Puducherry) assisted by Mr.M.Thamizhmani and instructed by Mr.V.S.Dhanabal, Sub-Inspector of Police, Thirunallar Police Station has submitted that the absentee is residing with her parents and she voluntarily and on her own volition is residing with her parents and she is not willing to go with the petitioner. In short, the learned Additional Public Prosecutor has submitted that the absentee is not under unlawful or illegal custody. Accordingly, he has prayed to dismiss the HCP. He has further submitted that the absentee is also present before the Court.

8.We had a short interaction with the absentee and the petitioner one after the other. Interaction reveal the following facts:



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(i) Absentee and the petitioner married in the year 2020. Out of the marriage, no child was born. Now, there is a matrimonial discord between the petitioner and the absentee.

(ii) Absentee on her own volition residing along with her parents.

(iii) Absentee is not in illegal or unlawful custody of the respondents 3 and 4.

(iv) Absentee informed that she is going to initiate divorce proceedings against the petitioner.

(v) Petitioner wants to speak with the absentee but the absentee did not want to speak with the petitioner.

9. In view of the facts and circumstances and narrative thus far, we are of the considered view that this is not a case of illegal detention or unlawful custody. Hence, we are inclined to close the HCP. However, we preserve all the rights and contentions of the petitioner, absentee and



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respondents 3 and 4 to approach the Family Court or matrimonial Court or any other jurisdictional Court / Fora and work out their remedy if any as per law.

10. In fine, this captioned HCP is disposed of as closed preserving all the rights and contentions of the petitioner, absentee, respondents (4) and (5) and / or anyone concerned for the absentee to work out their remedy before the appropriate Court/s /Forum /Fora / Authority / Authorities. If any such proceedings are initiated by the petitioner or absentee, the concerned Court shall deal with the same on its own merits and in accordance with law *de hors* this order.

(M.S., J.)

(R.S.V., J.)

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Index : Yes /No
Neutral Citation : Yes/No
Speaking / Non-speaking order
mk/tk



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To

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