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H.C.P.No.1713 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.09.2023

CORAM

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

H.C.P.No.1713 of 2023

Perumal

.. Petitioner

Vs

1.The Assistant Commissioner of Police,
Tambaram, Chengalpattu District.

2.The Inspector of Police,
Maraimalai Nagar Police Station,
Chengalpattu District.

3.Murali

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of habeas corpus directing the second respondent to produce the person or body of the detainee XXX daughter of Perumal, aged about 19 years, before this Court from the illegal custody of the third respondent and set her at liberty.

For Petitioner : Mr.J.Pradeep

For Respondents : Mr.E.Raj Thilak
Additional Public Prosecutor
for R1 and R2

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ORDER

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

Factual matrix in a nut shell i.e., bare minimum facts (shorn of elaboration) imperative for appreciating this order are that the petitioner's daughter 'XXX' (we are masking the name of the petitioner's daughter and we shall be referring to her as 'absentee' for the sake of convenience and clarity and for obvious reasons) aged 19 years (born in November 2004) and pursuing Nursing Course (B.Sc.) in a private college is missing from 19.08.2023; that the petitioner had lodged a complaint in this regard in Maraimalai Nagar police station on 21.08.2023 and the same has been taken on file vide Crime No.407 of 2023 by the said police station; that fearing illegal detention/unlawful custody of absentee by the third respondent (to be noted, third respondent is a private respondent), captioned 'Habeas Corpus Petition' (hereinafter 'HCP' for the sake of brevity, convenience and clarity) has been filed in this Court on 28.08.2023.

2. Today, Mr.J.Pradeep, learned counsel on record for petitioner and petitioner Thiru.Perumal, son of Thiru.Kathirvel are also before



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this Court. Learned counsel advertent to the complaint dated 21.08.2023 reiterated the aforementioned factual matrix.

3. Issue notice.

4. Mr.E.Raj Thilak, learned State Additional Public Prosecutor accepted notice for the official respondents (respondents 1 and 2) and learned Prosecutor is instructed by Mr.A.M.Dinesh, Sub Inspector of Police, T-9 Maraimalai Nagar Police Station and Ms.P.Priya, Grade I Woman Police Constable, T-9 Maraimalai Nagar Police Station.

5. Learned Prosecutor submitted that the absentee has been located and the absentee is present in Court. It came to light that captioned HCP can be disposed of without the presence of the third respondent albeit by preserving the rights and contentions of the third respondent as well as absentee in connected/collateral proceedings if any. Therefore, with the consent of learned counsel on record for petitioner and learned Prosecutor, main HCP was taken up and heard out.



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6. After hearing both sides, we had brief interaction with the absentee and the following points emerged:

6.1 The absentee is 19 years old having been born in November 2004 (as already mentioned supra) and therefore the absentee is clearly a major as of today;

6.2 The absentee says with absolute clarity and specificity that she was neither forcibly taken away nor illegally detained/forcibly detained by anyone much less by the third respondent;

6.3 The absentee stated that she was away from home with her friend in Valasaravakkam, Chennai, now that she is in Court she would like to go with the petitioner (absentee's father) and pursue her education;

6.4 The petitioner who is present in Court submitted through his counsel that he would be a good caregiver and ensure the absentee pursues her education as desired by her;

6.5 As already alluded to supra, absentee is a major



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as of today and it is her call/choice that would prevail.

This means that we drop the curtains on the habeas legal drill on hand.

7. Before we drop the curtains and write the concluding paragraph, we make it clear that all the rights and contentions of the third respondent will remain preserved as regards this absentee is concerned, if the need arises. It is more so as the captioned HCP is disposed of in the Admission Board when third respondent is not before us.

8. 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.)
05.09.2023

Index : Yes/No
Neutral Citation : Yes/No
mmi

To

1.The Assistant Commissioner of Police,

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Tambaram, Chengalpattu District.

2.The Inspector of Police,
Maraimalai Nagar Police Station,
Chengalpattu District.

3.The Public Prosecutor,
High Court, Madras.



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

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