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HCP No.1788 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.09.2023

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR
and

THE HONOURABLE MR.JUSTICE R.SAKTHIVEL

H.C.P.No.1788 of 2023

Krishnamoorthy
S/o.Serman

.. Petitioner

Vs.

1. The Superintendent of Police
Chengalpattu District
Chengalpattu.

2. The Inspector of Police
E10 Kayar Police Station
Chengalpattu District.

3. T.Dhanasekar

..Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of habeas corpus directing the 1 and 2nd respondents herein to produce the body in person of illegally detention / custody in 3rd respondent of petitioner's friend namely, Mr.Arun Kumar, son of Dhanasekar, aged about 33 years before this Hon'ble High Court and set him at liberty.

For Petitioner

:

Mr.M.Dinesh

For Respondents 1 and 2

:

Mr.E.Raj Thilak

Additional Public Prosecutor



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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. Central theme of the captioned HCP is, petitioner's friend one 'Arun Kumar' [hereinafter 'absentee' for the sake of convenience and clarity] is missing from August 2023. In this regard, fearing illegal detention by third respondent a 'representation dated 23.08.2023' [hereinafter 'said representation' for the sake of convenience and clarity] has been sent to respondents 1 and 2. Captioned writ petition has been filed with a prayer seeking to mandamus the respondents to locate the absentee complaining of inaction qua writ petitioner's representation. This Court is informed that the petitioner has sent a representation dated 23.08.2023 to first and second respondents but in paragraph No.7 of the support affidavit it is mentioned that representation was dispatched only on 30.08.2023.

3. Issue notice.



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4. Mr.E.Raj Thilak, learned State Additional Public Prosecutor accepts notice on behalf of Respondents 1 and 2 (official respondents) and submits on instructions (instructed by Mr.D.Paramanandan, Sub-Inspector of Police, Kayar Police Station, Chengalpattu District) that pursuant to the aforementioned representation, investigation was kick started and the absentee has since been located from Divine Life Foundation, DE Addiction Center, Maduravoyal, No.29, 3rd Street, Krishna Nagar, Maduravoyal.

5. In the light of the narrative thus far, let the absentee be produced before the jurisdictional Magistrate with prior intimation to the petitioner (absentee's friend) within a fortnight from today i.e., by 29.09.2023. We are informed that the jurisdictional Magistrate is Judicial Magistrate, Thiruporur. We request learned jurisdictional Magistrate to record statements of absentee, petitioner, third respondent and / or anyone else concerned with the matter. We requisition a report from Judicial Magistrate, Thiruporur, which shall be placed before us in the next listing for this purpose. Registry is directed to communicate a copy of this order to learned Judicial Magistrate, Thiruporur. We also request the learned prosecutor to file a report of second respondent. Learned jurisdictional Magistrate to proceed in accordance with law.



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6. As the captioned HCP is being disposed of in the Admission Board when third respondent is not before us, we make it clear that all rights and contentions of third respondent are preserved, if there are any other collateral / connected proceedings. To be noted, rights of petitioner, absentee and all other concerned with this matter are also preserved. If there are any connected / collateral proceedings, such Court/s/Forum/Fora/ Authority/Authorities shall deal with the matter/s on its own merits and in accordance with law untrammelled by this order which has been made for the limited purpose of giving a closure to the habeas legal drill on hand. Further we make it clear that it is open to the petitioner to come back to this Court not only with a similar but even same prayer if the need arises / if there are other developments. All the rights of all concerned are preserved.

7. Captioned HCP is disposed of with the aforementioned observations / directives.

(M.S.,J.) (R.S.V.,J.)
15.09.2023

Index : Yes
Speaking
Neutral Citation : Yes
mk

P.S: Though the captioned HCP is disposed of, Registry to list the captioned HCP under the cause list caption 'FOR REPORT' on 09.10.2023



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To
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1. The Superintendent of Police
Chengalpattu District
Chengalpattu.
2. The Inspector of Police
E10 Kayar Police Station
Chengalpattu District.
3. The Public Prosecutor
High Court, Madras.



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

mk

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