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H.C.P.No.1860 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.09.2023

CORAM

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

H.C.P.No.1860 of 2023

Muthukrishnan

.. Petitioner

Vs.

1. The Commissioner of Police
Avadi Range
Avadi
Tiruvallur District

2. The Inspector of Police
T-6, Avadi Police Station
Avadi
Tiruvallur District

3. Sanjaykumar

4. Puthu Valkai Foundation
Rep. by Mr. Perumal
150, Kamarajar Nagar
4th Street
Avadi, Chennai-71

.. Respondents

Page Nos.1/7



H.C.P.No.1860 of 2023

Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of habeas corpus directing the second respondent herein to produce the petitioner's father Kothandam, son of Father name not known, aged 60 years before this Court and set him at liberty from custody of third respondent.

For Petitioner : Mr.S.Rajini
for Mr.K.Thenrajan

For Respondents : Mr.E.Raj Thilak
Additional Public Prosecutor
Assisted by
Mr.Aravind.C

ORDER

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

This order will now dispose of the captioned 'Habeas Corpus Petition' ['HCP' for the sake of brevity].

2. Factual matrix in a nutshell is that one Thiru. Kothandam, son of Thiru.Govindasamy [Date of Birth: 30.06.1960] is the nucleus of the captioned HCP and he shall from hereon and henceforth be referred to as 'absentee' for the sake of convenience and clarity; that HCP petitioner is absentee's friend; that captioned HCP has been filed in this Court on 07.09.2023 saying that absentee at the instance of third respondent

Page Nos.2/7



H.C.P.No.1860 of 2023

[absentee's second son] has been illegally detained in fourth respondent's foundation, which this Court is informed is a rehabilitation centre run by one Thiru.Perumal.

3. Today, petitioner, Mr.S.Rajini, learned counsel for petitioner, Mr.E.Raj Thilak, learned State Additional Public Prosecutor [instructed by Ms.D.Seethalakshmi, Sub-Inspector of Police, T-6, Avadi Police Station], third respondent and absentee are present in Court. To be noted, the correct address of third respondent is as follows:

No.34, VOC Street, Sridevi Nagar
Kamaraj Nagar
Avadi, Chennai – 71

4. This Court is informed that aforementioned address of third respondent falls within the jurisdiction of T-6 Avadi Police Station [to be noted, Inspector of Police of T-6 Avadi Police Station has been arrayed as second respondent].

5. We heard learned counsel for petitioner and learned Prosecutor.

6. We had an interaction with the absentee and the following position emerges:

i) absentee has lost his spouse but he has his own immovable property / dwelling house at the following address:



H.C.P.No.1860 of 2023

No.1/153, Kollapuram Village
Morasapalli Post
Gudiyatham Taluk
Vellore, Tamil Nadu
Pin: 635 810

ii) absentee does not want to be confined in the fourth respondent's rehabilitation centre and he wants to go and reside in his own house in Vellore at the aforementioned address;

iii) Absentee says that he can take care of himself and he does not want to reside with the third respondent either;

iv) petitioner through his counsel submits that he will help the absentee;

v) third respondent, who is present in Court, was also informed that it is open to him also to help and assist the absentee if he so desires but he cannot confine or compel the absentee, who is 63 years old.

7. From the narrative thus far and from what we have set out *supra* capturing what unfurled in the hearing today, the allegation of illegal detention has now been put to rest. We make it clear that it is open to the absentee to go to Vellore and stay in his own residence without any compulsion much less forcible confinement by any one.



H.C.P.No.1860 of 2023

8. We make it clear that we are not expressing any opinion or view on the allegations of confinement qua third respondent and / or fourth respondent. We preserve all the rights and contentions of the petitioner, absentee, any one concerned for the absentee, third and fourth respondents and/or any one concerned with this matter for raising the same in connected / collateral proceedings, if any.

9. Before concluding, we wanted to know the legal status of fourth respondent which has been described as 'Puthu Valkai Foundation'. Learned Prosecutor, on instructions, submitted that it is a Centre which has been given a licence under a Statute pertaining to mental health. We have already made it clear that we are not expressing any opinion regarding confinement by fourth respondent and we are leaving open all the rights and contentions.

10.If there are any other collateral or connected proceedings in any other Court/s/Forum/Fora/Authority/Authorities, the same shall be dealt with in accordance with law untrammelled by this Court which has been made for the limited purpose of habeas legal drill on hand.

11. Captioned HCP disposed of as closed capturing the statement of the absentee and making aforementioned observations albeit preservation



H.C.P.No.1860 of 2023

of rights in the aforesaid manner.

WEB COPY

(M.S.,J.)

(R.S.V.,J.)

27.09.2023

Index : Yes/No

Neutral Citation : Yes/No

gpa

To

1. The Commissioner of Police
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3. The Public Prosecutor
High Court, Madras.



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H.C.P.No.1860 of 2023

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

gpa

H.C.P.No.1860 of 2023

27.09.2023

Page Nos.7/7