



H.C.P.No.1831 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.09.2023

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR
and

THE HONOURABLE MR.JUSTICE R.SAKTHIVEL

H.C.P.No.1831 of 2023

P.Ayyanar
S/o.Perumal

.. Petitioner

Vs.

1. The Superintendent of Police
O/o. The Superintendent of Police
Kallakurichi District
Kallakurichi.

2. The Inspector of Police
Kallakurichi Police Station
Kallakurichi.

3. S.Vijay
S/o.Sekar

..Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of habeas corpus to direct the 2nd respondent to produce the person and body of the detinue Mrs.Divya, wife of Mr.Hariharan, aged about 23 years, before this Hon'ble Court and set her at liberty.

For Petitioner : Mr.R.Baskar

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

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].

2. The central theme of captioned HCP is, petitioner's daughter one 'Divya, aged 23 years' [hereinafter 'absentee' for the sake of convenience and clarity] is missing from 01.08.2023, a complaint in this regard has been lodged by the petitioner with jurisdictional police i.e., Kallakurichi Police Station (to be noted SHO {Station House Officer} of Kallakurichi Police Station has been arrayed as second respondent), the same has been taken on record vide FIR No.533 dated 04.08.2023 by jurisdictional police station, the absentee has not been located as yet, fearing illegal detention *inter alia* by third respondent (private respondent) captioned HCP has been presented in this Court on 13.09.2023.

3. Issue notice to official respondents.

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4. Mr.E.Raj Thilak, learned Additional Public Prosecutor accepts notice for respondents 1 and 2 (official respondents) and submits on instructions (instructed by Mr.Prabu, Sub-Inspector of Police, Kallakurichi Police Station, Kotaimedu, Kallakurichi District) that pursuant to the aforementioned complaint dated 04.08.2023 (FIR No.533) investigation was kick started and investigation thus far does not bring to light any trappings of illegal custody or unlawful detention and the jurisdictional police is hopeful of locating the absentee in four weeks from today i.e., by 19.10.2023 by forming a special team. This Court is informed that two daughters of absentee are with petitioner.

5. Let the investigation proceed in accordance with law uninfluenced by captioned HCP.

6. On the absentee being located, let the absentee be produced before the jurisdictional Magistrate with prior intimation to the petitioner (absentee's father). The jurisdictional Magistrate is requested to record



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statements of absentee and all concerned in accordance with law. We are informed that the jurisdictional Magistrate is Judicial Magistrate No.I, Kallakurichi.

7. If there is undue delay or if there is any other development, we make it clear that all the rights and contentions of the petitioner, third respondent or anyone concerned for the absentee are preserved and left open for being raised in collateral or similar proceedings (if any) as the captioned HCP is being disposed of in the Admission Board more so when third respondent is not before us. If there are any connected / collateral proceedings, such Court/s/Forum/Fora/ Authority/Authorities shall deal with the same 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 or anyone concerned for the absentee to come back to this Court not only with a similar but even same prayer if the need arises. All the rights of all concerned are preserved.

8. Captioned HCP is disposed of with the aforementioned



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observations / directives and preservation of rights in the manner set out

supra. There shall be no order as to costs.

(M.S.,J.)

(R.S.V.,J.)

21.09.2023

Index : Yes

Speaking

Neutral Citation : Yes

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To

1. The Judicial Magistrate No.I,
Kallakurichi.
2. The Superintendent of Police
O/o. The Superintendent of Police
Kallakurichi District
Kallakurichi.
3. The Inspector of Police
Kallakurichi Police Station
Kallakurichi.
4. The Public Prosecutor
High Court, Madras.

M.SUNDAR, J.,

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and
R.SAKTHIVEL, J.,

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