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HCP No.1823 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.1823 of 2023

Lakshmi
W/o.Narayanan

.. Petitioner

Vs.

1. The Assistant Commissioner of Police
O/o. Assistant Commissioner of Police
Virugambakkam Range, Chennai District.

2. Inspector of Police
Virugambakkam Police Station
Chennai District.

3. Elango

4. Inspector of Police
Pallipalayam Police Station
Thiruchengode Sub Division
Namakkal District.

..Respondents

* (4th respondent has been suo-motu impleaded
vide this order dated 21.09.2023 made in HCP No.1823 of 2023)



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Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of habeas corpus directing the 2nd respondents herein to produce the body or person of petitioner's daughter namely, Archana D/o. Narayanan aged 22 years before this Hon'ble Court from the illegal custody of the 3rd respondent and set her at liberty.

For Petitioner	:	Mr.P.Muthamizh Selvakumar
For Respondents	:	Mr.E.Raj Thilak
		Additional Public Prosecutor
		For R1, R2 & R4

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. Factual matrix in a nutshell is that petitioner's fourth daughter 'Ms.Archana' [hereinafter 'absentee' for the sake of convenience and clarity] is missing from about 7.00 a.m. on 02.09.2023; that absentee is a graduate in Business Administration (BBA); that petitioner lodged a complaint with the jurisdictional police station namely, Virugambakkam Police Station (Koyambedu) and the same has been taken on file vide FIR No.575 dated 03.09.2023 (Woman Missing); that petitioner fearing that her daughter might



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have been illegally detained by third respondent (to be noted, third respondent is a private respondent) captioned HCP has been filed in this Court on 13.09.2023.

3. Today, Mr.P.Muthamizh Selvakumar, learned counsel on record for petitioner, who is before us, adverting to the aforementioned factual matrix reiterated the same.

4. Issue notice.

5. Mr.E.Raj Thilak, learned State Additional Public Prosecutor accepts notice for official respondents and learned Prosecutor is instructed by Mr.M.Malarvannan, Sub-Inspector of Police, R-5, Virugambakkam Police Station and Mr.V.Mohana Sundaram, Sub-Inspector of Police, Pallipalayam Police Station.

6. On instructions, learned Prosecutor submitted that investigation was kick started pursuant to the aforementioned 03.09.2023 complaint, it came to light that absentee has married third respondent. Learned Prosecutor



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submits, on instructions that absentee and third respondent have lodged a complaint with Pallipalayam Police Station, Namakkal District seeking protection alleging aggression by petitioner and her spouse Mr.Narayanan i.e., absentee's parents and for receipt of the same CSR No.173 of 2023 has been issued.

7. We suo-motu implead Station House Officer namely, Inspector of Police, Pallipalayam Police Station, Thiruchengode Sub-Division, Namakkal District as fourth respondent in the captioned HCP. Registry is directed to carry out necessary and consequential amendments before uploading / issuing certified copy of this order.

8. Learned Prosecutor submits, on instructions that absentee in her statement to police has made it clear that she has married third respondent on her own volition, she has gone with third respondent voluntarily and that she wants to continue the matrimonial tie with third respondent.

9. Under normal circumstances, the narrative thus far itself would have been the end of the road in a habeas legal drill but considering the peculiar



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facts and circumstances of the case on hand, more particularly owing to the complaint of absentee and third respondent seeking protection (fearing aggression by petitioner and his spouse i.e., absentee's parents) we deem it appropriate to say that it would be desirable to have the statements of parties concerned recorded by a Judicial Magistrate. Therefore, the following order is made:

(i) On 03.10.2023, petitioner, petitioner's spouse Thiru.Narayanan, absentee Ms.Archana and third respondent shall go before learned 'Chief Judicial Magistrate' [hereinafter 'CJM' for the sake of convenience] Namakkal District;

(ii) Learned CJM, Namakkal District is requested to record statements of absentee, third respondent, petitioner and petitioner's spouse;

(iii) Absentee as well as third respondent are majors (there is no disputation or contestation about this) and therefore at the end of the day, it is absentee's call. If the absentee reiterates her statement made before police, she will continue her matrimonial tie with third respondent.



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10. The narrative thus far drops the curtains on the captioned HCP. We make it clear that all the rights and contentions of petitioner, petitioner's spouse, absentee and more particularly third respondent (to be noted, captioned HCP is disposed of in the Admission Board when the third respondent is not before us) are preserved qua any other collateral / connected proceedings before any other Court/s/Forum/Fora/ Authority/Authorities which shall deal with matters (if any) before it on its own merits and in accordance with law untrammelled by this order which has been made for limited purpose of closure of habeas drill on hand.

Captioned HCP disposed of closed with the aforementioned directives, observations and preservation of rights in the aforesaid manner.

(M.S.,J.) (R.S.V.,J.)
21.09.2023

Index : Yes / No
Speaking / Non-speaking
Neutral Citation : Yes / No

P.S.: Though captioned HCP has been disposed of by this Court, 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 Chief Judicial Magistrate,
Namakkal District.
2. The Assistant Commissioner of Police
O/o. Assistant Commissioner of Police
Virugambakkam Range, Chennai District.
3. Inspector of Police
Virugambakkam Police Station
Chennai District.
4. Inspector of Police
Pallipalayam Police Station
Thiruchengode Sub Division
Namakkal District.
5. The Public Prosecutor
High Court, Madras.



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

mk

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