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HCP No.1898 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.09.2023

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

H.C.P.No.1898 of 2023

Sunraj

.. Petitioner

Vs.

1.Commissioner of Police,
Salem City, Salem.

2.The Inspector of Police,
Kitchipalayam Police Station,
Salem District.

3.Thirumaniselvi

..Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of habeas corpus directing the respondents to produce the body of the petitioner's wife Kalpana, aged 21 years before this Court from the illegal custody of the third respondent and set her at liberty.

For Petitioner	:	Mr.M.Karthik for Mr.J.Titus Enock
For Respondents	:	Mr.E.Raj Thilak Additional Public Prosecutor assisted by Mr.C.Aravind for R1 & R2



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ORDER

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[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 wife one 'Mrs.Kalpana, aged 21 years' [hereinafter 'absentee' for the sake of brevity] is missing from 31.08.2023, a complaint in this regard has been lodged by the petitioner with jurisdictional police (Kitchipalayam Police Station, Salem District) on 01.09.2023, the same has been taken on record as Crime No.720 of 2023 dated 01.09.2023 on the file of jurisdictional police station (to be noted, SHO {Station House Officer} of jurisdictional police station is second respondent in captioned HCP) and the absentee has not been located as yet. Fearing illegal detention of absentee qua third respondent, captioned HCP has been filed in this Court on 19.09.2023.

3. Issue notice.



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4. Mr.E.Raj Thilak, learned State Additional Public Prosecutor assisted by Mr.C.Aravind, learned counsel, accepts notice on behalf of Respondents 1 and 2 (official respondents) and submits on instructions (instructed by Mr.G.Suresh, Special Sub Inspector of Police, B5 Kitchipalayam Police Station, Salem City) that pursuant to the aforementioned complaint dated 01.09.2023 (Crime No.720 of 2023), investigation was kick started, a special team has been formed and investigation thus far does not show any trappings of illegal custody or unlawful detention and the jurisdictional police is hopeful of locating the absentee in three weeks from today i.e., by 20.10.2023.

5. Let the investigation proceed in accordance with law uninfluenced by this order and let the investigation be carried to its logical end. We make it clear that all the rights of third respondent, petitioner, absentee, anyone concerned with this case are preserved and this is more so as captioned HCP is being disposed of in the Admission Board when private respondent is not before this Court.

6. On the absentee being located, let the absentee be produced before the jurisdictional Magistrate to record absentee's statement and statements of all concerned with prior intimation to



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the petitioner (absentee's husband). We are informed that the jurisdictional Magistrate is Judicial Magistrate II, Salem. Registry is directed to communicate forthwith a copy of this order to learned Judicial Magistrate II, Salem.

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, absentee or anyone concerned for the absentee and third respondent are preserved and left open for being raised in collateral or similar proceedings. 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.

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

(M.S.,J.) (R.S.V.,J.)
29.09.2023

Index : Yes / No
Neutral Citation : Yes / No
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To

1.The Commissioner of Police,
Salem City, Salem.



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2.The Inspector of Police,
Kitchipalayam Police Station,
Salem District.

3.The Judicial Magistrate II,
Salem.

4.The Public Prosecutor
High Court, Madras.



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

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