



HCP No.2190 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.01.2023

Coram

The Hon'ble Mr. Justice **M.SUNDAR**
and

The Hon'ble Mr. Justice **M.NIRMAL KUMAR**

H.C.P. No.2190 of 2022

A.Krishna Perumal

... Petitioner

-VS-

1.The Commissioner,
South Zone, Police Officer Street,
Binny Road, Nazarethpuram,
Gandhi Nagar, St.Thomas Mount,
Chennai – 16.

2.Inspector of Police,
S-15 Selaiyur Police Station,
Selaiyur,
Chennai – 59.

... Respondents

Habeas Corpus Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus directing the second respondent police to produce the detenu Kalaivani who is aged a bout 34 years, son Yugan aged about 8 years and daughter Samyuktha aged about 6 years before this Court and set them liberty.



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For Petitioner	..	Mr.M.Murugesan
For Respondents	..	Mr.R.Muniyapparaj Additional Public Prosecutor
For Detenu	..	Mrs.S.Nadhiya Legal Aid Counsel

ORDER

[Order of the Court was made by M.NIRMAL KUMAR, J.]

Read this in conjunction with and in continuation of our earlier proceedings made on 24.01.2023, which reads as follows:

'Read this in conjunction with and in continuation of earlier proceedings made in the listing on 13.12.2022 by Hon'ble predecessor Bench, which reads as follows:

'This Habeas Corpus Petition has been filed by the petitioner seeking a direction to the 2nd respondent Police to produce Kalaivani, aged about 34 years; son - Yugan, aged 8 years; and daughter - Samyuktha, aged 6 years, before this court and set them at liberty.

2. On 11.11.2022, we passed the following order:-

"On 03.11.2022, we passed the following order:



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“It is the case of the petitioner that his wife Kalaivani (34 years) went missing along with his two children Yugan (8 years) and Samyuktha (6 years) from 23.10.2022 and that the police are not taking effective steps to secure them.

2. On instructions, the learned Additional Public Prosecutor submitted that the petitioner has not given any complaint to the police, which submission, the learned counsel for the petitioner refuted.

3. Be that as it may, we direct the petitioner to go in person and lodge a complaint before the second respondent/police. On such complaint being lodged, the second respondent/police shall register a regular FIR for “woman and children missing” and report to this Court on the next date of hearing.

Post the matter on 11.11.2022.”

2. Today, Mr.P.Perumal, Sub-Inspector of Police, T-12, Selaiyur Police Station; A.Krishna Perumal (petitioner); Kalaivani (wife of the petitioner); Yugan (son of the petitioner) and Samyuktha (daughter of the petitioner) are present.

3. On instructions, Mr.R.Muniyapparaj, learned Additional Public Prosecutor, submitted that pursuant to the order of this court dated 03.11.2022, on the complaint given by Krishna Perumal (the petitioner herein) a case in Selaiyur Police Station Crime NO.644 of 2022 has been registered on 04.11.2022 for Woman, Boy and Girl Missing.

4. Tmt.Kalaivani, the wife of the petitioner, stated that she is residing with her two children at Plot No.54, Shanthi Nikethan Colony Extension, Madambakkam, Chennai 600073. Her Cell No. is 99401 12515.

5. When we interacted with the petitioner, he stated that he



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wants to reunite with his wife and children. Therefore, we referred them to Mediation Room to have discussions amongst themselves bearing in mind the paramount interest of the children in the presence of Mrs.T.Rama, Deputy Registrar, Tamil Nadu Mediation and Conciliation Center, High Court, Madras. It appears that during their interaction, Yugan was keen to go with his father whereas Samyuktha was little hesitant on account of her tender age. After discussion amongst themselves, the spouses agreed that, for the present, Yugan would be with the petitioner and Samyuktha would remain with Kalaivani. The mediation process which began today should continue for some more time.

Therefore, we direct Mrs.T.Rama, Deputy Registrar, Tamil Nadu Mediation and Conciliation Center, High Court, Madras, to nominate a trained mediator for this case and the parties shall appear before the Mediator on the date(s) fixed by the Mediator. In any event, the mediation process would be completed on or before 09.12.2022 and a report be sent to this Court for further orders. Call on 12.12.2022.”

2. Today, A.Krishna Perumal (petitioner), Kalaivani (wife of the petitioner) and Samyuktha (daughter of the petitioner) and Ms.A.Saraswathy, Woman Head Constable (WHC32437), T-12, Selaiyur Police Station, were present.

3. The Mediation and Conciliation Centre has sent a report dated 09.12.2022, wherein, it is stated that “Mediation Completed. No agreement was reached”. The said report is taken on record.



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4. Kalaivani did not have legal assistance and, therefore, we informed her of her right to free legal assistance, for which, she agreed. We, therefore, nominated Ms.S.Nadhiya, Advocate (Enrollment No.2702/2017), Mobile No. 98408 03691, to appear for Kalaivani in this matter.

5. We interacted with both Krishna Perumal and Kalaivani. They sought time.

6. During our interaction, Krishna Perumal stated that though Yugan is in his custody, Yugan is missing his sister Samyuktha and wants both of them to join together. Whereas Kalaivani stated that she has put Samyuktha in a school in Tiruvannamalai and she is working as a Coordinator in the same school. She further stated that in three month's time, she would get a similar job in Chennai and until then, status quo could continue. She further stated that Yugan can come over to Tiruvannamalai and be with her in the meanwhile during school vacations. Whatever Kalaivani has stated may be put in the form of affidavit before us so that it could form part of the record.

The present status, viz., Yugan would be with Krishna Perumal and Samyuktha would be with Kalaivani, shall continue until further orders.

Call on 03.01.2023.'

2. Adverting to the aforementioned earlier proceedings made by Hon'ble predecessor Bench, Ms.S.Nadhiya, learned counsel appointed by this Court submits that Ms.Kalaivani is not responding to her phone calls.



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3. Be that as it may, learned State Additional Public Prosecutor instructed by Ms.A.Saraswathi, Woman Head Constable, T-12, Selaiyur Police Station submits that Kalaivani had informed over phone that divorce proceedings have since been initiated.

4. Be that as it may, in the light of the proceedings made by Hon'ble predecessor Bench on 13.12.2022, we deem it appropriate to direct the learned Additional Public Prosecutor to instruct the jurisdictional/respondent police to ensure that Kalaivani remains present in this Court in the next listing along with her daughter Samyuktha aged 6 years. Likewise, petitioner counsel shall also ensure that petitioner Mr.A.Krishna Perumal is present in the next listing before this Court along with minor son Yugan.

List on Tuesday i.e., 31.01.2023.'

2.The above proceedings speaks for itself and it is telltale qua facts and the trajectory the matter has taken thus far.

3.Today the petitioner and the detenu/his wife are present. Both of them agreed to join together and continue to live as husband and wife along with their children, namely, Yugan aged 8 years who is with the petitioner



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herein and Samyuktha, aged 6 years who is with her mother/detenu. The detenu submitted that she already given a notice for resignation and as soon as the notice period is over [which gets over during the end of February 2023], she will join the petitioner during March 2023 along with her daughter which is also agreeable for the petitioner.

4.In view of the above, the Habeas Corpus Petition stands closed.
There shall be no order as to costs.

5.This Court appreciates Mrs.S.Nadhiya, appointed as legal aid counsel for the detenu in effectively defending the detenu and rendering sincere efforts in this regard.

(M.S,J.) (M.N.K.,J.)
31.01.2023

Index:Yes
Neutral Citation : Yes/No
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and
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