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H.C.P.No.2041 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.10.2023

CORAM

THE HONOURABLE MR. JUSTICE **S.S. SUNDAR**
AND
THE HONOURABLE MR. JUSTICE **SUNDER MOHAN**

H.C.P.No.2041 of 2023

J.Sathish

... Petitioner

Vs.

1.The Commissioner of Police,
Chennai City, Chennai 7.

2.State Rep. By
The Inspector of Police,
K1, Sembium Police Station,
Chennai – 11.

3.R.Venkatesan

... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of habeas corpus directing the second respondent to produce petitioner's wife Anandhi, aged 30 years, before this Court from the illegal custody of 3rd respondent and set her at liberty.

For Petitioner : Mr.L.K.Charles Alexander

For Respondents : Mr.E.Raj Thilak
Additional Public Prosecutor
assisted by Mr.C.Aravind
for R1 and R2



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ORDER

(Order of the Court was made by **S.S. SUNDAR, J.**)

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Seeking a direction to the second respondent to produce the petitioner's wife Anandhi, aged 30 years, before this Court from the illegal custody of 3rd respondent and to set her at liberty, the present habeas corpus petition has been filed.

2. Petitioner is the husband of the detinue. According to the petitioner, he married the detinue in the year 2010 and the couple were blessed with two children, one girl and one boy. It is the case of the petitioner that the detinue went to look after an old age woman in Nungambakkam on 26.09.2023 and thereafter did not return home. After a few days, a complaint was lodged for 'woman missing' before the second respondent police station. The petitioner has impleaded the third respondent in this petition as according to him, the third respondent allured his wife illegally and detained her.

3. After filing of this habeas corpus petition, the second respondent secured the detinue and produced before this Court. The detinue has stated that she is working and she was forced to leave the matrimonial home because of the pressure she had experienced with her husband by demanding her salary.



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4. Learned counsel for the petitioner produced before this Court few photographs to show that the detenue had developed illegal intimacy with the third respondent. He also complained that the third respondent, after the detenue was secured, is threatening the petitioner.

5. This Court is not going into all those issues as it is not a case of illegal detention. The petitioner is having custody of two minor school going children. Though the detenue expressed her willingness to keep the children and denied her intimacy with the third respondent, she states that the third respondent is helping her to tide over the difficulties she is facing in her day to day life.

6. From the materials placed before this Court, we are convinced that the detenue is having an affair with the third respondent. This Court is not going into the issue whether the detenue is living with the third respondent or not. However, this is not a case of illegal detention as the detenue had in unequivocal terms and unambiguous words expressed her willingness to be away from her husband for her benefit. She also undertakes not to disturb or interfere with the studies of her children who are now under the care and custody of the petitioner.



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7. Recording the statement of the detenue, this habeas corpus petition is closed.

(S.S.S.R., J.) (S.M., J.)
31.10.2023

Index : Yes / No
Neutral Citation : Yes / No
mmi

To

- 1.The Commissioner of Police,
Chennai City, Chennai 7.
- 2.The Inspector of Police,
K1, Sembium Police Station,
Chennai – 11.
- 3.The Public Prosecutor,
High Court, Madras.



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