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HCP(MD)No.536 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.11.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.SUNDAR

and

THE HONOURABLE MR.JUSTICE R.SAKTHIVEL

H.C.P.(MD)No.536 of 2023

Kabeepkani

: Petitioner

Vs.

1.The Commissioner of Police,
Madurai.

2.The Inspector of Police,
Koodalpudur Police Station,
Madurai.

3.Gowtham

: Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus, directing the first and second respondents to produce the body or person of the detainee who is the petitioner's minor daughter namely Jeyarath Banu, D/o. Jalaludeen, aged about 16 years before this Court and handover the custody to the petitioner concerned.



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For Petitioner : Mr.C.Ezhilarasu

For Respondents : Mr.A.Thiruvadi Kumar

Additional Public Prosecutor

ORDER

[Order of the Court was made by **M.SUNDAR, J.**]

This order will now dispose of the captioned matter.

2.This order has to be read in conjunction with and in continuation of earlier proceedings made in the listings on 16.10.2023 and 30.10.2023 which read as follows:

16.10.2023:

'In the captioned 'Habeas Corpus Petition' ['HCP' for the sake of brevity] HCP petitioner's complaint is that her third daughter 'xxxxx' [we are masking the name of the petitioner's third daughter and we shall be referring to her as 'absentee' for the sake of convenience] went missing in April 2023, resulting in registration of a complaint vide FIR No.291 of 2023 in Koodalpudur Police Station, Madurai City [girl missing]. It is the further case of HCP petitioner that absentee was located, she came back but she again went missing from 07.04.2023, fearing illegal detention by third respondent [to be noted, third respondent is a private respondent] captioned HCP has been filed. In the Admission Board another Hon'ble Coordinate Bench [on 28.04.2023] made following proceedings:



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'Mr.RMS.Sethuraman, learned App., takes notice for R1 & R2 and seeks time to progress the investigation and to report before this Court.

Notice to R3 through Court as well as privately returnable by 05.06.2023.

Post on 05.06.2023.'

2. Today the matter was mentioned saying absentee has been located.

3. Therefore, the matter was taken up by way of additional list.

4. Ms.Vigneswari, learned counsel for HCP petitioner, Mr.R.Meenakshi Sundaram, learned State Additional Public Prosecutor for respondents 1 and 2 (instructed by, G.Pulikutti Ayyanar, Sub Inspector of Police, Koodalpudur Police Station, Madurai City) and absentee are present in Court.

5. This Bench had an interaction with the absentee and the petitioner.

6. Learned State Additional Public Prosecutor submitted, on instructions, that the third respondent has been arrested and remanded [vide Crime No.324 of 2023, dated 17.04.2023, on the file of Koodalpurud Police Station].

7. From our aforementioned interactions, it came to light that absentee is willing to go with her mother [to be noted, absentee is 17 years 5 months and 20 days old as of today] but HCP petitioner [mother] has some reservations, however from what transpired in the interaction and from the submissions, we deem it appropriate to refer the matter to 'Tamil Nadu Mediation



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and Conciliation Centre' under the aegis of this Court ['TNMCC'] for counselling at 3.30 p.m., today [16.10.2023]. We are acutely conscious that one of the parties ie., HCP petitioner's daughter xxxx is a minor. Therefore, this reference is only in the nature of counselling for HCP petitioner on one side and xxxxx on the other side. We request TNMCC to counsel and if necessary refer the mother and daughter to any specialised counselling centre. This also obviously means that no agreement would be recorded by TNMCC as absentee xxxxx is a minor. We make it clear that this is a one off case, this course is being adopted owing unique nature of the matter and this will not serve as precedent qua other HCP matters.

8. We are informed that the absentee is now lodged in Sakthi Vidiyal Home, Muthupatti, Madurai and this will continue until further orders from this Court. List fortnight hence.

9. List on 30.10.2023.'

30.10.2023:

'Read this in conjunction with and in continuation of earlier proceedings made in the previous listing on 16.10.2023.

2.The report from TNMCC shows that the matter is listed today (30.10.2023) for a further sitting.

3.We request TNMCC to send a further report to us after today's sitting.

4.List one week hence. List on 06.11.2023.'



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3.Today, Mr.C.Ezhilarasu, learned Counsel for HCP petitioner and Mr.A.Thiruvadi Kumar, learned State Additional Public Prosecutor for official respondents [respondents 1 and 2] are before this Court.

4.The above mentioned proceedings capture the central theme of captioned HCP and also the trajectory the matter has taken thus far. Today, HCP petitioner and absentee are also before us. This Bench had interactions with the HCP petitioner as well as the absentee. The HCP petitioner and absentee [mother and daughter respectively] submitted in one voice that the absentee would go with the mother and that the HCP petitioner's mother would take the absentee with her. This Bench was also informed that there were two sittings before TNMCC and both have unanimously arrived at what has been captured supra.

5.In the light of the narrative thus far, presence of third respondent is really not necessary for disposal of captioned HCP. To be noted, we make it clear that all the rights and contentions of third respondent remain preserved for any connected or collateral proceedings in any other Court/s/Forum/Fora/Authority/Authorities as we are acutely conscious that the captioned matter is being disposed



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of when third respondent is not before us. If any other Court/s/Forum/Fora/Authority/Authorities are moved, it shall consider the matter on its own merits and in accordance with law untrammelled by this order which has been made only for the limited purpose of giving a closure to the habeas legal drill on hand.

6.In the light of the narrative thus far, curtains are dropped on captioned HCP. Captioned HCP is disposed of as closed. There shall be no order as to costs.

[M.S.,J.] & [R.S.V.,J.]
01.11.2023

Neutral Citation : Yes/No

Index : Yes/No

Internet : Yes/No

MR



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To

1.The Commissioner of Police,
Madurai.

2.The Inspector of Police,
Koodalpudur Police Station,
Madurai.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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

MR

ORDER MADE IN
H.C.P.(MD)No.536 of 2023

01.11.2023