



HCP(MD)No.669 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 25.07.2023

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**THE HON'BLE MR JUSTICE M.S.RAMESH
AND
THE HON'BLE MR JUSTICE M.NIRMAL KUMAR**

H.C.P.(MD)No.669 of 2023

Naina Mohamed Labic

... Petitioner / Son-in-law of the detenu

Vs.

1.The Superintendent of Police,
Ramanathapuram,
Ramanathapuram District.

2.The Inspector of Police,
Keelakarai Police Station,
Ramanathapuram District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, against the respondents 1 and 2 directing them to produce in person or body of the petitioner's mother-in-law, namely, Raseena Beevi, wife of Abdul Salam, aged about 55 years before this Court and set her at liberty.



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For Petitioner : Mr.P.Prakash

For Respondents : Mr.RMS.Sethuraman
Additional Public Prosecutor

ORDER

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

The petitioner is the son-in-law of one Raseena Beevi, wife of Abdul Salam, who is alleged to have been missing from 23.02.2023 onwards. His complaint to the 2nd respondent Police made on 10.03.2023 has been registered in Crime No.34 of 2023 under the caption 'Woman Missing' and investigation is in progress. The petitioner, now, seeks for securing the physical presence of his mother-in-law before this Court.

2.It is not the case of the petitioner that his mother-in-law is in illegal custody of someone. When he had given a complaint to the jurisdictional Police with regard to his missing mother-in-law, the same has been registered and the investigation is in progress. When the petitioner has invoked appropriate remedy by filing a complaint, which is also taken on file by the 2nd respondent, the present petition under Article 226 of Constitution of India may not be maintainable, in view of the alternative efficacious remedy under Section 482 of Cr.P.C.



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3.The Hon'ble Supreme Court of India in the case of *State of Himachal Pradesh v. Pirthi Chand and Another* reported in *1996 (2) SCC 37* has held that when an efficacious remedy under Section 482 Cr.P.C., is available, the High Court should not exercise its extraordinary power under Article 226 of Constitution of India. Since the petitioner's complaint has already been registered and the investigation is in progress, no further orders are required to be passed in the present Habeas Corpus Petition. Therefore, this Habeas Corpus Petition is closed. However, it is always open to the petitioner to workout his remedy in accordance with law. In the meantime, the 2nd respondent shall continue the investigation and file final report as expeditiously as possible.

(M.S.R.,J.) & (M.N.K.,J.)
25.07.2023

NCC : Yes / No
Index : Yes / No

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M.S.RAMESH, J.
AND
M.NIRMAL KUMAR, J.

Yuva

To

- 1.The Superintendent of Police,
Ramanathapuram,
Ramanathapuram District.
- 2.The Inspector of Police,
Keelakarai Police Station,
Ramanathapuram District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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