



H.C.P(MD)No.1042 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 28.11.2023

Coram

THE HON'BLE MR.JUSTICE M.SUNDAR
and
THE HON'BLE MR. JUSTICE R.SAKTHIVEL

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Manjunath

.. Petitioner

VS

**1.The Superintendent of Police,
Office of the Superintendent of Police,
Madurai District.**

**2.The Inspector of Police,
Thirumangalam Town Police Station,
Madurai District.**

3.Tejas

4.Poornima

.. Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Habeas Corpus directing the respondents 1 and 2 to produce the person or body of the detenu by name Swetha, daughter of Manjunathan, aged about 19 years before this Court and set her at liberty.



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For Petitioner : Mr.R.Alagumani
For Respondent Nos.1 & 2 : Mr.R.Meenakshi Sundaram
Additional Public Prosecutor
For Respondent Nos.3 & 4 : Mr.M.Venkatachalam

ORDER

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

Captioned 'Habeas Corpus Petition' [hereinafter 'HCP' for the sake of brevity, clarity and convenience] has been filed in this Court on 14.08.2023.

2.Short facts are that HCP petitioner is father of one Swetha [Swetha shall hereinafter be referred to as '*absentee*' for the sake of convenience]; that date of birth of absentee is 07.06.2004 (19 years and 5 months as of today and therefore a major); that it is the case of HCP petitioner that absentee was originally in Karnataka with HCP petitioner, she came to Tamil Nadu on 13.04.2023; that absentee went out on 29.04.2023 saying that she is going to her aunt's home; that fearing illegal detention of absentee by respondents 3 and 4 (to be



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noted, respondent No.4 is mother of respondent No.3) captioned HCP
has been filed.

3.We make it clear that bare minimum facts that are essential
and imperative for appreciating this order have been set out supra.

4.After listings on 18.08.2023, 04.09.2023 and 25.09.2023
and on 31.10.2023 when the matter stood over to 02.01.2024, the matter
was mentioned yesterday (27.11.2023) saying that absentee has been
located. Therefore, the matter was listed today (28.11.2023).

5.Today, petitioner, Mr.R.Alagumani, learned counsel for
petitioner along with Mr.S.Ramesh Kumar, petitioner's spouse
(Ms.Dhavamani), Mr.R.Meenakshi Sundaram, learned State Additional
Public Prosecutor for respondents 1 and 2 instructed by second
respondent (Ms.A.Lakshmi Latha, Inspector of Police, Thirumangalam
Town Police Station), respondent No.3 and Mr.M.Vekatachalam,
learned counsel for respondents 3 and 4 were all present in Court.



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6.Respondents 3 and 4 have filed separate counter-affidavits

and we had the benefit of perusing the counter-affidavits.

7.This Court had the benefit of interacting with absentee besides hearing the submissions of learned counsel for petitioner, learned Prosecutor and learned counsel for respondents 3 and 4. The following points emerged:

'(i) Absentee is clearly a major, her date of birth being 07.06.2004 (19 years and 5 months as of today);

(ii) Third respondent is also a major, his date of birth being 16.05.2003 (20 years and 6 months as of today);

(iii) Third respondent is not staying with his mother (fourth respondent) but he is staying separately;

(iv) Absentee says that she went with third respondent on her own volition, she has married third respondent on 17.05.2023 and wants to continue the marital tie;

(v) Absentee was located in Karnataka, absentee was brought home by the petitioner and her spouse on Thursday



(23.11.2023) and absentee has been with petitioner and his spouse (absentee's parents) from Thursday. To be noted, absentee has come to Court today with her parents ie., petitioner and his spouse;

(vi) Though absentee was with her parents from Thursday till coming to Court today, absentee is very clear that she wants to continue her tie with third respondent;

(vii) Absentee stated clearly that she is not under any threat or coercion for saying so and that she is not under any other form of duress or compulsion; and

(viii) Absentee and third respondent shall now be residing at this address for the present (Door No.101, Hoysala Magava, 1st B Cross, Vishwa Needam Post, Sunkadakatte).

8.In the light of what surfaced in the hearing today which has been captured supra, we make the following order:

'(i) Absentee and third respondent both of whom are majors having made a choice of their own are free to go by their option; and



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(ii) If there is any change of circumstances, it is open

WEB COPY to the parties to take a different position and this order will not bind all the parties for all time to come.'

9.In the light of the narrative thus far, captioned HCP is disposed of as closed albeit capturing what surfaced / unfurled in the hearing today. There shall be no order as to costs.

(M.S.,J.) (R.S.V.,J.)
28.11.2023

Index : Yes/No
Neutral Citation : Yes/No
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- To
- 1.The Superintendent of Police,
Office of the Superintendent of Police,
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 - 2.The Inspector of Police,
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Madurai District.
 - 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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

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