



HCP(MD). No.1056 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
Criminal Original Jurisdiction

Wednesday, the Thirtieth day of August Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice M.S.RAMESH
AND
The Hon`ble Mr.Justice M.NIRMAL KUMAR

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Rajeshwari

... Petitioner
/Mother of the detenu

Vs

1. The Superintendent of Police
O/o the Superintendent of Police
Virudhunagar District.
2. The Inspector of Police
O/o Sivakasi East Police Station
Sivakasi
Virudhunagar District.

3. Kumar

... Respondents

Prayer :-

This Habeas Corpus Petition filed under Article 226 OF the constitution of

India To direct the respondents to produce body or person of the petitioner's son

<https://www.mhc.tn.gov.in/judis>



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namely Lingeshwaran, S/o Velmurugan aged about 21 years before this Honble

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court and set him liberty forthwith and pass any further order or orders

ORDER:- This Habeas corpus Petition coming on for orders on this day and upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of Ms. Jinnah.S.M.A, Advocate for the Petitioner and of Ms. Sethuraman, Government Advocate for the respondent(s), this Court made the following order:

By an order dated 22.08.2023, we had passed final orders by rejecting the petitioner's prayer and had imposed cost of Rs.10,000/-. The said order reads as follows:

“When the petitioner's son, namely Lingeshwaran, S/o.Velmurugan aged about 21 years, had gone missing from the petitioner's house, she had given a complaint on 19.07.2023, which has been registered by the second respondent police in Crime No,285/2023 dated 19.07.2023 as man missing. In the subsequent representation given on 15.08.2023 to the first and second respondents herein, the petitioner himself has admitted that her son had gone missing and the second respondent had registered the



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complaint and thereafter there was no progress in the investigation.

It is, in this background, she has filed the present petition.

2. In the affidavit filed in support of the present Habeas Corpus Petition also, there is no reference to any illegal custody of her son by anybody, apart from a submission that her son is having an affair with the daughter of the third respondent herein, who are residing in the opposite house.

3. We are unable to comprehend as to how this Habeas Corpus Petition can be sustained when there are absolutely no averments making out a cause of action for securing the petitioner's son, who is a major. It is not the case of the petitioner that her son is in the illegal custody of the third respondent herein. On the other hand, this is a case of man missing, which is under investigation by the second respondent police. If at all the petitioner is not satisfied with the progress in the investigation, the appropriate remedy would be to invoke Section 482 Cr.P.C. and hence, resorting to Article 226 of the Constitution of India is an abuse of process of law. In this background, we are of the view that the petitioner should be imposed with costs.



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4. In the light of the above findings, this Habeas Corpus Petition is dismissed with a direction to the petitioner to pay cost of Rs.10,000/- (Rupees ten thousand only) to the credit of Current Account No.7567821433, (IFSC Code: IDIBI000H040), in the Indian Bank, High Court Branch, Madurai Bench of Madras High Court, Madurai, towards Kalaignar Centenary Library, on or before 29.08.2023.

5. Post on 30.08.2023 for recording compliance.”

2. In this background, the matter was posted today for recording compliance of the payment of the cost. The learned counsel for the petitioner has filed a memo dated 30.08.2023. As per the memo, a sum of Rs.10,000/- has been paid to the Current Account Number 7567821433, [IFSC Code: IDIBI000H040] in the Indian Bank, High Court Branch, Madurai Bench of Madars High Court, Madurai, towards Kalaignar Centenary Library.



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3. Recording the same, we are of the view that no further orders are necessary in this Habeas Corpus Petition.

Sd/-
Assistant Registrar ()

// True Copy //

/09/2023
Sub Assistant Registrar(CS)

TO

1. The Superintendent of Police
O/o the Superintendent of Police
Virudhunagar District.
2. The Inspector of Police
O/o Sivakasi East Police Station Sivakasi
Virudhunagar District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai

