



H.C.P(MD)No.1113 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 29.11.2023

Coram

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

H.C.P(MD)No.1113 of 2023

Senthilkumar

.. Petitioner

VS

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

2.The Inspector of Police,
Kottampatti Police Station,
Madurai District.

.. 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 XXXX, D/o.Senthilkumar, female, aged about 14 years, the daughter of the petitioner before this Court and hand over her custody to the petitioner.

For Petitioner : Mr.T.Indrachithu

For Respondents : Mr.R.Meenakshi Sundaram
Additional Public Prosecutor



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ORDER

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

Captioned 'Habeas Corpus Petition' [hereinafter 'HCP' for the sake of brevity] has been filed in this Court on 30.08.2023.

2.Short facts or in other words factual matrix in a nutshell is that HCP petitioner's minor daughter 'XXXX' [we are masking the name of 'HCP petitioner's daughter' and we shall be referring to her as '*absentee*' for the sake of convenience] who was studying 10th standard in a Government Girls Higher Secondary School is missing from 09.08.2023; that a complaint was lodged with Kottampatti Police Station (Madurai District) on the same day (09.08.2023); that this complaint was taken on file qua second respondent as Crime No.261 of 2023 (girl missing); that captioned HCP was filed fearing illegal detention of absentee.

3.Proceedings dated 04.09.2023, 19.09.2023, 27.09.2023, 11.10.2023 and 16.11.2023 made in the previous listings are as follows:



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No.	Date	Main Case / Misc. Case No.	Office Notes, Reports, Orders or Proceedings with Signatures
	9/9/23	1113/23	<u>MSRT & MNKT</u> Learned Addl. Public Prosecutor seeks leave to file a status report. Put in 19/9/23 B/c L/A
	19/09/2023		<u>MSRT & MNKT</u> (29) The learned Additional Public Prosecutor seeks further time to secure the detenu. Post the matter on 27.09.2023. B/c L/A 19/09/2023
	27/9/23		<u>MSRT & MNKT</u> Learned Addl. Public Prosecutor has filed a status report and seeks leave further time to secure the petitioner's minor daughter. Put in 11/10/23 B/c L/A



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11.10.2023

'H.C.P.(MD)No.1113 of 2023

M.SUNDAR, J.

and

R.SAKTHIVEL, J.

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

There is no representation for the petitioner but learned State Prosecutor is before this Court and learned State Prosecutor is ready.

*2.With the intention of giving opportunity to the petitioner and petitioner's Counsel, list this matter again on **16.11.2023.**'*

16.11.2023

'H.C.P(MD)No.1113 of 2023

M.SUNDAR, J.

and

R.SAKTHIVEL, J.

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

Read this in conjunction with and in continuation of earlier proceedings, more particularly, proceedings made in the previous listing on 11.10.2023.



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2.Adverting to earlier proceedings, learned Prosecutor submits that as regards the exercise of locating petitioner's daughter 'XXX' [we are masking the name of the petitioner's minor daughter and we shall be referring to her as 'absentee' for the sake of convenience] is underway and owing to the nature of the investigation six weeks may be a reasonable time frame to carry the investigation to its logical end.

3.Be that as it may, as regards previous proceedings, learned counsel expresses regret for missing the matter and not representing the matter. To be noted, previous proceedings made in the listing on 11.10.2023 read as follows:

'H.C.P.(MD)No.1113 of 2023

M.SUNDAR, J.,

and

R.SAKTHIVEL, J.,

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

There is no representation for the petitioner but learned State Prosecutor is before this Court and learned State Prosecutor is ready.



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2.With the intention of giving opportunity to the petitioner and petitioner's Counsel, list this matter again on 16.11.2023.'

4.To be noted, learned Prosecutor is instructed by Mr.C.Manimaran, the Inspector of Police, Kottampatti Police Station, Madurai District.

5.To be noted, if the absentee is located between today and the next listing, it is open to the parties to mention before this Court.

6.List after six weeks.

7.List on 04.01.2024.'

4.The aforementioned proceedings are tell tale qua trajectory the matter has taken before us.

5.Today, captioned HCP was mentioned at half past ten by learned Prosecutor saying that absentee has been located in Tiruppur and therefore the same was taken up by way of an additional list.

6.In the hearing MrT.Indrachithu, learned counsel for HCP petitioner, HCP petitioner and his spouse (Selvamani), Mr.R.Meenakshi



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Sundaram, learned Additional Public Prosecutor instructed by second respondent (Mr.C.Selvakumar, Sub-Inspector of Police, Kottampatty Police Station) and absentee were before us.

7.This Bench had a brief interaction with the absentee and the following points emerged:

'(i) Absentee is a minor, she having been born in August 2009;

(ii) Absentee says she left home on her own volition and she now wants to go back with her parents ie., HCP petitioner and his spouse;

(iii) Absentee submits that she wants to continue her education and study further; and

(iv) HCP petitioner through his counsel assures this Court that he and his spouse will be good care givers and take adequate and ample care of absentee including ensuring her continued education.'



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8.We have captured what unfurled in the hearing today and this by itself is good enough to drop the curtains on the Habeas legal drill on hand. However, we deem it appropriate to say that all the rights and contentions of HCP petitioner, absentee and/or anyone concerned for the absentee and/or anyone who is being prosecuted in this matter remain preserved. Let the law take its course and it is open to the parties to seek any other collateral or connected remedy in any suitable Court, Forum or Authority. If any other collateral or connected remedy is sought by any of the parties concerned irrespective of whether such parties are before us or not, the Court/Courts/Fora/Forum /Authority/Authorities shall consider the same on its own merits and in accordance with law uninfluenced/*de hors* closure of captioned HCP.

9.Captioned HCP is disposed of in the aforesaid manner.
There shall be no order as to costs.

(M.S.,J.) (R.S.V.,J.)
29.11.2023

Index : Yes/No
Neutral Citation : Yes/No



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- To
- 1.The Superintendent of Police,
Madurai District,
Madurai.
 - 2.The Inspector of Police,
Kottampatti Police Station,
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.,

ps

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