



*HCP(MD)No.1142 of 2023*

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED: 05.10.2023**

**CORAM:**

**THE HONOURABLE MR.JUSTICE M.SUNDAR**

**and**

**THE HONOURABLE MRS.JUSTICE R.KALAIMATHI**

**H.C.P.(MD)No.1142 of 2023**

Santhosh Kumar

: Petitioner

Vs.

1.The State rep. by

The Superintendent of Police,  
O/o. Superintendent of Police Office,  
Pudukkottai District.

2.The Inspector of Police,

Alangudi Police Station,  
Pudukkottai District.

3.Selvaraj

: Respondents

**PRAYER:** Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus, directing the respondents 1 & 2 to produce the petitioner's wife namely Viji who is aged about 25 years before this Court and set her at liberty.



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For Petitioner : Mr.J.Ganesh  
For Respondents 1&2 : Mr.A.Thiruvadi Kumar  
Additional Public Prosecutor  
For Respondent No.3 : Mr.V.Selvakumar

**O R D E R**

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

This order will now dispose of the captioned 'Habeas Corpus Petition' ['HCP' for the sake of brevity].

2.Factual matrix in a nut shell ie., facts that are imperative for appreciating this order are that the petitioner married one 'XXX' [we are masking the name of the person and we shall be referring to her as 'absentee' for the sake of convenience] on 27.01.2023; that this marriage was registered in the office of the Sub-Registrar, Periamet, Chennai; that according to the petitioner, the third respondent [to be noted, third respondent is a private respondent and father of absentee] according to HCP petitioner has forcibly taken away the absentee and is illegally detaining the absentee; that under such circumstances, captioned HCP was filed in this Court on 07.09.2023; that predecessor Hon'ble Division Bench admitted the captioned HCP and issued notice on 13.09.2023; that the captioned HCP is listed before us today.



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**3.**In the hearing today, Mr.R.Thirumoorthy, along with Mr.J.Ganesh, learned Counsel on record was before us on a video conferencing platform [VC platform]. To be noted, this is a hybrid hearing. Mr.A.Thiruvadi Kumar, learned State Additional Public Prosecutor for the official respondents [Respondents 1 and 2] instructed by S.Velusamy, Inspector of Police, Vallathirakkottai Police Station is before us. Mr.V.Selvakumar, learned Counsel for the third respondent is also before us. This Bench was informed that the absentee is present.

**4.**This bench had an interaction with the absentee, thereafter with the petitioner and then with the absentee and the petitioner together. The following facts emerged:

- i) The petitioner as well as the absentee are majors;
- ii) The petitioner's date of birth is 19.01.1996 and absentee's date of birth is 10.10.1998;
- iii) The petitioner and absentee have got married, the marriage was on 27.01.2023 and the same has been registered in the office of the Sub-Registrar, Periamet, Chennai;



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iv) The absentee is now with her father (third respondent) and the absentee says that she is with her father on her own volition voluntarily;

v) The absentee submits that divorce proceedings have already been initiated in a Court ie., Principal Sub-Judge's Court, Pudukkottai and both sides ie., the petitioner as well as the absentee submit that the next hearing is on 28.10.2023;

vi) The petitioner submitted that he would like to continue the matrimonial tie and in any event, the petitioner is also aware of the divorce petition that has been filed by the absentee;

7) The absentee says she wants to go with her father [third respondent].

**5.**In the light of the narrative thus far, it comes to light that the absentee is a major and it is not a case of illegal detention or unlawful custody but it is a question of matrimonial discord between absentee and petitioner, whilst absentee has already initiated proceedings for divorce, the petitioner wants to continue the matrimonial tie and we make it clear that it is open to the petitioner to file a suitable petition



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in an appropriate Court and work out his remedy. If the petitioner chooses to do so, this order will not impede such proceedings. Likewise, the divorce petition already filed will also not be impeded by this order. In other words, the Courts concerned shall continue with the proceedings on its own merits and in accordance with law untrammelled by this order which has been made for the limited purpose of giving closure to the legal drill on hand.

**6.**In the light of the narrative thus far, captioned HCP is disposed of as closed albeit preserving all the rights and contentions of petitioner, absentee, third respondent and anyone else concerned with the matter for working out their remedy / remedies before appropriate Court / Courts / Forum / Authority / Authorities. There shall be no order as to costs.

**[M.S.,J.] & [R.K.M.,J.]**

**05.10.2023**

Index : Yes/No

Internet : Yes/No

MR



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To

- 1.The Superintendent of Police,  
O/o. Superintendent of Police Office,  
Pudukkottai District.
  
- 2.The Inspector of Police,  
Alangudi Police Station,  
Pudukkottai District.
  
- 3.The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.



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**M.SUNDAR, J.**  
**and**  
**R.KALAIMATHI, J.**

MR

**ORDER MADE IN**  
**H.C.P.(MD)No.1142 of 2023**

**05.10.2023**