



H.C.P(MD)No.1139 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.10.2023

CORAM :

THE HONOURABLE MR.JUSTICE **M.SUNDAR**
and
THE HONOURABLE MR.JUSTICE **R.SAKTHIVEL**

H.C.P(MD)No.1139 of 2023

Meena

... Petitioner

vs.

1. The Superintendent of Police,
Theni District.

2. The Inspector of Police,
Veerapandi Police Station,
Theni District.

3. Murugeshwari

... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Habeas Corpus, directing the 2nd respondent to produce the person or body of the detenu/petitioner's husband namely Manikanda Prabu @ Manikandan son of Pandian aged about 27 years before this Hon'ble Court and set him at liberty.

For Petitioner

: Mr.K.R.Manimaran

For Respondent Nos.1 & 2

: Mr.A.Thiruvadi Kumar
Additional Public Prosecutor



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ORDER

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

Captioned 'Habeas Corpus Petition' ['HCP' for the sake of brevity] has been filed in this Court on 08.09.2023.

2. Short facts are that the petitioner married one Manikanda Prabhu @ Manikandan and the marriage was solemnized in September, 2016; that according to learned counsel for petitioner Mr.K.R.Manimaran, it is a love marriage; that the third respondent (private respondent) is petitioner's mother-in-law; that after marriage the petitioner and her spouse were living at Kottur, Theni District; that sometime in March of 2019, the petitioner's spouse Manikanda Prabhu @ Manikandan (we shall be referring to the petitioner's spouse as 'absentee' for the sake of convenience) left home saying that he is going to visit the third respondent but did not return; that on 16.08.2023, the petitioner lodged a complaint in Veerapandi Police Station in Theni District; that fearing illegal detention of absentee by third respondent captioned HCP was filed in this Court; that on 13.09.2023 in the Admission Board, learned Additional Public Prosecutor accepted notice for official



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respondents and sought time; that the Additional Public Prosecutor reported to Court on 27.09.2023 that absentee is not in the custody of the third respondent but the investigation is in progress; that the matter is listed before us today.

3. Today, Mr.K.R.Manimaran, learned counsel for HCP petitioner submitted that a detailed complaint dated 16.08.2023 had been sent by the petitioner *inter alia* to the second respondent by post.

4. We find that even according to petitioner, the absentee is missing from March of 2019, but a complaint has been sent by post only on 16.08.2023 more than four and a half years later. However, today the case diary has been placed before us and we find that an FIR has been registered being FIR Crime No.325 of 2023 on the file of Veerapandi Police Station in Theni District saying man missing and going by the complaint, it has been registered that absentee is missing from 01.12.2020.

5. Learned Additional Public Prosecutor, who is instructed by the second respondent submits that every effort is being taken to locate the absentee and reiterates the submission made in 27.09.2023 listing which



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has been captured by Predecessor Hon'ble Division Bench and a scanned reproduction of the proceedings of Hon'ble Division Bench dated 27.09.2023 is as follows:

Sl.No.	Date	Main Case / Misc. Case No.	Office Notes, Reports, Orders or Proceedings with Signatures
	27/9/23	H.C.P. No. 1139/23	MSR STOKT Learned Addl. Public Prosecutor on instructions, submitted that the petitioner's husband is not in the custody of the third respondent, who is his mother. He would submit that the investigation is still in progress. But after two weeks. Blw aa 10/10

6. From the submissions, it also comes to light that there is a six year old son from the wedlock between the petitioner and the absentee and this minor child is now with the petitioner. Be that as it may, the case diary placed before us also shows that investigation is progressing i.e. public notices have been issued, statements have been recorded and CDR details have also been collected. Let the investigation proceed in accordance with law.



7. Considering the facts and circumstances of the case, it comes to light that eight weeks from today may be a reasonably realistic time frame to locate the absentee and/or carry the investigation to its logical end.

8. We, therefore, make the following order:

(a) Let the investigation which is already underway continue pursuant to aforementioned FIR dated 15.09.2023 in FIR Crime No.325 of 2023;

(b) On locating the absentee, let the absentee be produced before the jurisdictional Magistrate (we are informed that jurisdictional Magistrate is Judicial Magistrate, Theni) with prior intimation to the petitioner;

(c) We request the jurisdictional Magistrate to record statements of the petitioner, absentee and any other persons concerned with the matter;

(d) We drop the curtains on the captioned HCP but we make it clear that we are preserving all the rights and contentions of the petitioner, absentee and more particularly, third respondent who is not before



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us (we are acutely conscious of the fact that captioned HCP is being disposed of when third respondent i.e. private respondent is not before us) and any other persons concerned with the matter;

(e) We also preserve the rights and contentions of the parties to go before any other Court/s / Forum / Fora / Authority / Authorities and such Court/s/ Forum / Fora / Authority / Authorities shall consider the matter before it on its own merits and in accordance with law untrammelled by this order which has been made for the limited purpose of giving a closure to the habeas legal drill on hand.

9. Captioned HCP is disposed of as closed albeit with the aforementioned observations and preservation of rights in the aforesaid manner. There shall be no order as to costs.

(M.S., J.) (R.S.V., J.)
12.10.2023

Index : No
Internet : Yes
Neutral Citation : No
PKN



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To

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1. The Superintendent of Police,
Theni District.
2. The Inspector of Police,
Veerapandi Police Station,
Theni 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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ORDER MADE IN
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12.10.2023