



H.C.P(MD)No.1184 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.10.2023

CORAM :

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

H.C.P(MD)No.1184 of 2023

R.Raveendran

... Petitioner

vs.

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

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

... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Habeas Corpus, by directing the respondents 1 to 3 to produce the body or person of the detenues namely R.Kalaivani, W/o.Raveendran (aged 35 years) and Minor R.Ashnithasri, D/o.Raveendran (aged 10 years) before this Hon'ble Court and set them at liberty.

For Petitioner

: Mr.A.Karthik

For Respondent Nos.1 & 2

: Mr.R.Meenakshi Sundaram
Additional Public Prosecutor

For Detenue Nos.1 & 2

: Mr.J.Mohamed Ibrahim



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ORDER

[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 nutshell is that petitioner and Ms.R.Kalaivani are married; that the marriage was solemnized 16 years ago; that from the wedlock there are two children 'yyy' son and 'xxx' daughter (we are masking the names of the children for obvious reasons) and suffice to say that yyy is the elder child and xxx is the younger child; that xxx daughter is the epicentre of the captioned HCP; that according to petitioner on 05.09.2023 owing to matrimonial discord his spouse took away xxx from the school in Uthamapalayam Taluk, Theni District; a complaint in this regard has been lodged by the petitioner in Rayappanpatti Police (jurisdictional police station) on 14.09.2023 (to be noted, SHO of jurisdictional police station is second respondent in captioned HCP); that captioned HCP was filed in this Court on 22.09.2023; that before Hon'ble Predecessor Bench, petitioner, petitioner's spouse and xxx (absentee) were present; that Predecessor



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Bench referred the matter to Mediation in and by an order dated 27.09.2023; that mediation was conducted by 'Tamil Nadu Mediation and Conciliation Centre under the aegis of this Court' ('TNMCC' for the sake of brevity); that TNMCC has now sent a mediation report dated 05.10.2023 stating that two mediation sessions were held but the mediation failed as no agreement was reached.

3. Today, Mr.A.Karthik, learned counsel for petitioner submits that captioned HCP was filed fearing illegal detention of HCP petitioner's spouse and xxx.

4. Be that as it may, today, Mr.A.Karthik, learned counsel for petitioner, Mr.R.Meenakshi Sundaram, learned Additional Public Prosecutor for official respondents (respondents 1 and 2) and Mr.J.Mohamed Ibrahim, learned counsel for HCP petitioner's spouse and xxx are present in Court.

5. As the mediation has failed, the parties will now have to workout their remedies in appropriate Forum i.e., GAWA Court [to be noted, 'GAWA' stands for 'Guardians and Wards Act, 1890'] or any other appropriate Court/Forum. In this regard, the present residence of HCP



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petitioner's spouse and xxx is significant and a scanned reproduction of a affidavit in this regard is as follows:

IN THE HIGH COURT OF JUDICATURE MADRAS AT
MADURAI BENCH
(Special Original Jurisdiction)
H.C.P.(MD) No. 1184 of 2023

R.Raveendran,
S/o. Ramaiah,
Ward No.12, Kuruppasamy Kovil Street,
Kamayagoundanpatti,
Uthamapalayam Taluk,
Theni District - 625 521. ... **Petitioner/ Husband of the Detentue**
-Vs-

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

2. The Sub-Inspector of Police,
Rayappanpatti Police Station,
Rayappanpatti,
Theni. ... **Respondents**

AFFIDAVIT OF THE DETENTUE NO.1

I, Kalaivani, wife of Raveendran, Hindu aged about 33,
now temporarily residing at Door No.1/387, 19th Street,
Madambakkam, Guduvancherry, Kancheepuram District - 603
202, now temporarily come down to Madurai and do hereby
solemnly affirm and sincerely state as under:

1. That I am the 1st Detentue herein and I am well acquainted
with the facts of the case and as such I am competent to
swear this affidavit on behalf of myself and for the Detentue
No.2 who is my Minor Daughter.

2. I submitted that the Petitioner herein is my husband and
the Petitioner has filed a Habeas Corpus Petition in

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Dated: 2023



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H.C.P.(MD).No. 1184 of 2023 for seeking to issue a Writ of Habeas Corpus directing the 1st and 2nd Respondents to produce the body or person of the denentues namely R.Kalaivani, W/o. Raveendran, (aged 35 years) and Minor ~~R.Kalaivani~~, D/o. Raveendran, (aged 10 Years), before this Hon'ble Court and set them at liberty.

3. I respectively submitted that after my wedlock, I started my matrimonial life at the Petitioner mentioned address i.e., Ward No.12, Karuppasamy Kovil Street, Kamayagoundanpatti, Uthamapalayam Taluk, Theni District - 625 521. Thereafter on the date of occurrence i.e., 05.09.2023, I left from my above said Matrimonial house along with my daughter namely ~~Agasthiyan~~ and went to Kancheepuram District.

4. I respectively submitted that now I along with my minor daughter namely ~~Agasthiyan~~ are residing at my friend namely Vinethini at Door No.1/387, 19th Street, Madambakkam, Guduvancherry, Kancheepuram District - 603 202 and I am searching for Job to eke our livelihood.

Therefore I pray this Hon'ble court may please to take my affidavit on the file of this Hon'ble Court and pass appropriate further order or other orders as this Hon'ble Court may deem fit and proper in the circumstances of the case and thus render justice.

Solemnly affirmed at Madurai
this 11th day of October of 2023
having understood the contents the
deponent signed his name in my presence.

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Exhib.1114

S. Kalinai
BEFORE ME
(Sd/-) (8/10/22)
ADVOCATE
SEVATHI - M.
540. Kk. Nagar. Madurai
7825922702



6. Mr.J.Mohamed Ibrahim, learned counsel representing HCP petitioner's spouse and xxx submits that his client (Ms.R.Kalaivani) would ensure that xxx continues her school education, to be noted, the submission was made on instructions. Learned counsel also submitted that if there is any change of address before entering appearance in Family Court / GAWA Court or any other appropriate Court (to be noted, learned counsel for petitioner, on instructions, submits that he intends to initiate proceedings in that regard) the change of address shall be intimated to the Registry of this Court.

7. Though obvious, we make it clear that all the rights and contentions of HCP petitioner, HCP petitioner's wife and any one else concerned with this matter are preserved for any proceedings in Family Court / Courts / GAWA Court or any other Court / Forum / Fora / and or any other Authority / Authorities. We also further make it clear that if the Family Court / GAWA Court or any other Forum / Fora / Authority / Authorities are approached with regard to this matrimonial discord or custody of xxx, such Court / Forum / Authority shall deal with the matter 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.



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8. We also make it clear that if there is any other issue of illegal detention in the days to come i.e., any other development in that direction, it is open to the petitioner or for that matter the petitioner's spouse to come to this Court with a similar or same prayer.

9. Captioned HCP disposed of as closed recording the stated position of the parties in the aforesaid manner with aforesaid observations and preservation of rights in the aforesaid manner.

(M.S., J.) (R.S.V., J.)
11.10.2023

Index : No
Internet : Yes
Neutral Citation : No
PKN

To

1. The Superintendent of Police,
Theni District,
Theni.
2. The Inspector of Police,
Rayappanpatti Police Station,
Rayappanpatti, Theni District.



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H.C.P(MD)No.1184 of 2023

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

PKN

ORDER MADE IN
H.C.P(MD)No.1184 of 2023

11.10.2023