



H.C.P(MD)No.1246 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 30.10.2023

Coram

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

H.C.P(MD)No.1246 of 2023

S.P.Velluchamy

.. Petitioner

VS

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

2.The Inspector of Police,
Kullathoor Police Station,
Kullathoor,
Thoothukudi District.

3.Chithiraiselvi

.. 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 body or person of the petitioner's daughter-in-law namely Muthumari, W/o.Seenirajan aged about 32 years and minor 2nd grandson namely Vaithiyarajan, S/o.Seenirajan, aged about 2 years before this Court and set them at liberty.



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For Petitioner : Mr.V.Chandrapandi

WEB COPY For Respondent Nos.1 & 2 : Mr.R.Meenakshi Sundaram
Additional Public Prosecutor

ORDER

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

This order will now dispose of the captioned 'Habeas Corpus Petition' [hereinafter 'HCP' for the sake of brevity, clarity and convenience].

2.This order has to be read in conjunction with and in continuation of earlier proceedings made in the previous listing on 16.10.2023 which reads as follows:

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M.SUNDAR, J.,

and

R.SAKTHIVEL, J.,

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

When the matter was taken up, it was noticed that in the affidavit in paragraph No.2 it has been mentioned that date of marriage of HCP petitioner's son is 09.05.2021 but it has also been averred that there are two children from



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detention/illegal custody of 'YYY' [hereinafter 'YYY' shall be referred to as 'absentee' for the sake of convenience] captioned HCP has been filed in this Court on 04.09.2023; that it is to be noted that the third respondent is mother of R.Muthumari (HCP petitioner's Sambanthi).

5.Issue notice to official respondents.

6.Mr.R.Meenakshi Sundaram, learned State Additional Public Prosecutor, accepts notice for official respondents (respondents 1 and 2).

7.Learned Prosecutor, on instructions, submitted that pursuant to 17.08.2023 complaint given by HCP petitioner investigation was started and it has come to light that petitioner's daughter-in-law has remarried and settled in Erode with her spouse one Thiru.Regupathy. It is also submitted that petitioner's daughter-in-law is now in the family way and that absentee (YYY) is safe with the petitioner's daughter-in-law in Erode.



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8.Learned Prosecutor placed before us Case Diary and the statement given by R.Muthumari says that she fears high-handed action by HCP petitioner.

9.Be that as it may, R.Muthumari, W/o.Raghupathy is now residing at I Palapalayam, Engur Post, Erode – 638 052 with the absentee (YYY).

10.The narrative thus far makes it clear that fear of illegal detention/unlawful custody has come to an end and it is now open to HCP petitioner to work out his remedies in 'GAWA Court' [to be noted, 'GAWA' stands for 'Guardians and Wards Act, 1890'] if so desired and if so advised.

11.All the rights and contentions of the petitioner, more particularly third respondent [we are acutely conscious that third respondent is not before us and HCP is being disposed of] are preserved for any proceedings in GAWA Court and/or any other



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connected/collateral proceedings in any other

WEB COURT/Courts/Forum/Fora/Authority/Authorities.

12.It is made clear that such Court/Courts/Fora/Forum/Authority/Authorities shall deal with the matter/s (if any) before them on its own merits and in accordance with law untrammelled by the closure of the captioned HCP. Likewise, we also put in a caveat that HCP petitioner who now knows the whereabouts/location of his daughter-in-law and absentee grandson 'YYY' shall not become adventurous in any manner i.e., shall not attempt any high handed activity and shall only resort to legal proceedings before Court/Courts/Forum/Fora/Authority/Authorities for custody and/or visitation rights of absentee that may be permissible in law if so advised and if so desired.



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13.Captioned HCP is disposed of in the aforesaid manner

with the aforesaid observations and preserving all the rights in the aforesaid manner.

(M.S.,J.) (R.S.V.,J.)
30.10.2023

Index : Yes/No
Neutral Citation : Yes/No
ps

To

- 1.The Superintendent of Police,
Thoothukudi District,
Thoothukudi.
- 2.The Inspector of Police,
Kullathoor Police Station,
Kullathoor,
Thoothukudi District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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M.SUNDAR, J.,
and
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