



H.C.P(MD)No.1231 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 11.10.2023

Coram

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

H.C.P(MD)No.1231 of 2023

Sagaya Johnson

.. Petitioner

vs

1.The Superintendent of Police,
Kanyakumari District,
Nagercoil.

2.The Inspector of Police,
Kanyakumari Police Station,
Kanyakumari.

3.Micheal Newmen (Paris Priest)

.. Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Habeas Corpus for the produce of the person or body of the petitioner's wife Andro Delphin Golda (female/28 years) before this Court and set her at liberty forthwith.

For Petitioner

: Mr.S.Palanivelayutham

For Respondent Nos.(1) & (2) :

Mr.R.Meenakshi Sundaram
Additional Public Prosecutor



H.C.P(MD)No.1231 of 2023

WEB COPY

ORDER

[Order of the Court was made by R.SAKTHIVEL, J.]

Petitioner has filed this 'Habeas Corpus Petition' [hereinafter 'HCP' for sake of brevity] praying to produce his wife, namely Andro Delphin Golda, before this Court and set her at liberty forthwith.

2.Factual matrix of this petition is that the petitioner married Andro Delphin Golda (hereinafter 'absentee' for the sake of brevity) in the year 2014. Out of their wedlock, they have two male children aged 6 years and 3 years. According to the petitioner, his wife was friendly with respondent No.(3). Petitioner had restrained her from speaking with respondent No.(3). In these circumstances, petitioner's spouse went missing from 05.09.2023 at 09.00 p.m. Petitioner suspects that his wife is in unlawful or in illegal custody of third respondent. Hence, the petitioner has filed a petition before the second respondent and the second respondent in turn has registered a case in Crime No.230 of 2023 on 11.09.2023 and there appears to be no improvement in the investigation. Hence this petition.



H.C.P(MD)No.1231 of 2023

WEB COPY

3. Learned counsel for the petitioner has reiterated the petition averments and submitted that the petitioner reasonably apprehends that his wife is in illegal or unlawful custody of third respondent.

4. Issue notice to the respondents 1 and 2.

5. Mr.R.Meenakshi Sundaram, learned Additional Public Prosecutor accepts notice for the official respondents 1 and 2 and has submitted that the second respondent has registered a case in Crime No.230 of 2023 under 'woman missing' and investigation was kick started and after locating the absentee, second respondent will produce the absentee as ordered by this Court.

6. Admittedly, the petitioner's spouse namely Andro Delphin Golda is a major, aged about 28 years. Petitioner's two minor sons remain with the petitioner.



WEB COPY

7. Considering the facts and circumstances of the case, we direct the respondents 1 and 2 to locate and produce the petitioner's spouse namely Andro Delphin Golda before learned Judicial Magistrate No.I, Nagercoil within a period of two weeks from today i.e., on or before 25.10.2023, after due prior intimation to the petitioner. Learned Judicial Magistrate No.I, Nagercoil is directed to record the statement of the absentee, the petitioner and third respondent and/or anyone concerned with the absentee whom the learned Magistrate deems fit and proper in the facts and circumstances of the case.

8. In view of the facts and circumstances of the case, we preserve the rights of the petitioner, absentee, respondent No.(3) and/or anyone concerned with the absentee to approach a suitable Court/s/Forum/Fora/Authority, if need arises. Needless to mention that if the absentee is not in any unlawful or illegal custody, being a major, is at liberty to decide her course of her life.



H.C.P(MD)No.1231 of 2023

9. In the result, this HCP is disposed of. However, we preserve all the rights and contentions of the parties in the aforesaid manner. There shall be no order as to costs.

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

Index : Yes/No

Neutral Citation : Yes/No

ps

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



WEB COPY



H.C.P(MD)No.1231 of 2023

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

ps

H.C.P(MD)No.1231 of 2023

11.10.2023