



HCP(MD)No.1239 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.10.2023

CORAM :

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

HCP(MD)No.1239 of 2023

S.Sivaranjani

... Petitioner

vs.

1. The Superintendent of Police,
Office of the Superintendent of Police,
Madurai District.

2. The Inspector of Police,
Saptur Police Station,
Madurai District.

3. Deivakani

... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Habeas Corpus, directing the Respondents to produce the body or person of the Detenu namely Subburaj / the detenu aged about 32 years, Son of Duraisamy before this Court and set him liberty.

For Petitioner : Mr.P.Banuprasath
For R1 & R2 : Mr.R.Meenakshi Sundaram
Additional Public Prosecutor



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ORDER

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

Captioned 'Habeas Corpus Petition' [hereinafter 'HCP' for the sake of convenience and brevity] has been filed in this Court on 09.10.2023.

2. Factual matrix in a nutshell is that the petitioner's spouse Thiru.Subburaj is missing from 22.09.2023; that petitioner and Thiru.Subburaj were married on 13.09.2019; that from this wedlock, there are two children, a male child aged about about 2¼ years and another an eight months old infant [baby]; that fearing illegal detention by 3rd respondent [to be noted 3rd respondent is a private respondent i.e., Deivakani D/o.Selvaraj], captioned HCP has been filed.

3. Issue notice to official respondents i.e., respondents 1 and 2.

4. Mr.R.Meenakshi Sundaram, learned Additional Public Prosecutor accepts notice for the official respondents. Learned Prosecutor is instructed by Mr.R.Murugan, Special Sub Inspector of Police, Sedapatti Police Station.



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5. Learned Prosecutor submits that investigation pursuant to a complaint lodged by the petitioner which has been taken on file as FIR No.130/2023 dated 24.09.2023 on the file of Saptur Police Station, Madurai, a special team has been formed, statements are being recorded and public notice has been issued.

6. Learned Prosecutor submits on instructions that preliminary investigation shows that it may not be a case of illegal detention or unlawful custody but it may be a case of the petitioner's spouse being friendly with 3rd respondent.

7. In the light of the narrative thus far, we deem it appropriate to say that investigation pursuant to the aforementioned FIR shall proceed in accordance with law. On the Jurisdictional Police locating the petitioner's spouse, he shall be produced before the Jurisdictional Magistrate [Judicial Magistrate, Peraiyur, Madurai District] with prior intimation to the petitioner.

8. We request the Jurisdictional Magistrate to record the statements of the absentee, petitioner and all concerned.



9. We also make it clear that if there are any other collateral or connected proceedings, the rights and contentions of all concerned i.e., petitioner, absentee and 3rd respondent [we are acutely conscious of the fact that the captioned matter is being disposed of in the admission board and therefore it is imperative that the rights of the 3rd respondent are preserved] are all preserved. We deem it appropriate to make it clear that any Court / Courts / Fora / Forum / Authority / Authorities in which there are any collateral or connected proceedings, shall deal with the matter on its own merits and in accordance with law uninfluenced / untrammelled by this order which has been made for the limited purpose of concluding the habeas drill on hand. This being a habeas legal drill, we make it clear that matrimonial issues [if any] and tussle for custody of children [if any] between HCP petitioner and her spouse have to be sorted out in appropriate Family Court / GAWA Court [to be noted GAWA stands for Guardians and Wards Act, 1890] and therefore this order and recording of statements by jurisdictional Magistrate is restricted to ascertaining if there is any illegal detention.

10. Be that as it may, learned Prosecutor submits on instructions that four weeks from today may be a realistic time frame to carry the investigation to its logical end.



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11. If there are any further / other developments warranting a habeas drill, we preserve the rights of the petitioner to come back to this Court with similar / same prayer setting out the developments clearly.

12. Captioned HCP is disposed of in the aforesaid manner with aforesaid observations and preservation of rights in the aforesaid manner.

There shall be no order as to costs.

(M.S., J.) (R.S.V., J.)
13.10.2023

Index : Yes
Neutral Citation : Yes
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To

1. The Superintendent of Police,
Office of the Superintendent of Police,
Madurai District.

2. The Inspector of Police,
Saptur Police Station,
Madurai 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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DATED : 13.10.2023