



HCP(MD)No.1292 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.11.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.SUNDAR

and

THE HONOURABLE MR.JUSTICE R.SAKTHIVEL

H.C.P.(MD)No.1292 of 2023

Sumathi

: Petitioner

Vs.

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

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

3.Kalaiarasan

4.The Inspector of Police,
All Women Police Station,
Thirupparankundram,
Madurai City.



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5.The Chairperson,

Child Welfare Committee,

Government Annai Satya Children's Home,

Dr.Thangraj Salai, K.K.Nagar,

Madurai – 625 020.

: Respondents

[Respondents 4 & 5 are suo motu impleaded vide order dated 08.11.2023]

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus, directing the second respondent to produce the person or body of the detenu namely Muthulakshmi, D/o. Gunasekaran, aged 17 years before this Court and hand over her custody to the petitioner.

For Petitioner : Mr.T.Eashwar

For Respondents : Mr.R.Meenakshi Sundaram

Additional Public Prosecutor

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 18.10.2023.



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2.Factual matrix in a nut shell is, petitioner's daughter 'XXX' [we are masking the name and we shall be referring to the petitioner's daughter as 'absentee' for the sake of convenience] was missing from 14.07.2023; that a complaint was lodged with the jurisdictional police; that absentee was located; that absentee was lodged in Sakthi Vidiyal Home, No.21, Kennet Nagar, Muthupatti East, Madurai – 625 003; that on 13.09.2023 absentee was missing from the 'Vidiyal' Home; that a complaint was lodged by the petitioner; that fearing illegal detention / unlawful custody by third respondent [third respondent is a private respondent] captioned HCP has been filed.

3.Captioned HCP was listed before another Hon'ble Coordinate Bench on 20.10.2023. Mr.A.Thiruvadi Kumar, learned State Additional Public Prosecutor accepted notice for official respondents [respondents 1 and 2]. Today, this Court was informed that absentee was located and is being produced and therefore captioned matter was taken up by way of additional list.

4.We had interaction with the absentee and petitioner who are present in Court.



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5.Owing to what transpired in the interaction we deem it appropriate to implead the Inspector of Police, All Women Police Station, Thirupparankundram, Madurai City and the Chairperson, Child Welfare Committee, Government Annai Satya Children's Home, Dr.Thangraj Salai, K.K.Nagar, Madurai – 625 020 as respondents 4 and 5. Learned State Prosecutor accepts notice for respondents 4 and 5 also.

6.The following points emerged from the interactions:

- a) The absentee left home on her own volition voluntarily and absentee was / is not in illegal detention or unlawful custody of any one much less third respondent;
- b) Absentee says when she left Vidiyal Home she was in a Church in Vadipatti but she wants to pursue her education [to be noted absentee discontinued +2];
- c) HCP petitioner [absentee's mother] does not want to take the absentee home. Petitioner expresses reservation about taking the absentee home.

7.In the light of the narrative thus far, we dispose of captioned HCP by making the following order:



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a) Absentee shall continue to be in Sakthi Vidiyal Home for the present;

b) The fifth respondent shall take steps to ensure that absentee continues her education and shift her to a permanent Home for this purpose if that becomes necessary;

c) As regards FIR vide Crime No.283 of 2023 [Girl Missing] dated 14.07.2023 on the file of second respondent the same shall be carried to its logical end and if necessary DGP circular dated 03.12.2022 bearing reference Rc.No.009464/Crime-4(3)/2022 shall be followed;

d) If there is a change of heart for the petitioner, it is always open to the petitioner to take the absentee home if the absentee is willing to go at that point of time;

e) The petitioner can always visit the absentee in permanent Home to which she is shifted if she so desires;

f) The absentee will attain majority on 19.08.2024. On attaining majority it is open to the absentee to make a choice of her own. We deem it appropriate to say this owing to facts and circumstances of the case though this is the obvious position.



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8.Captioned HCP disposed of in the aforesaid manner. There shall be no order as to costs.

[M.S.,J.] & [R.S.V.,J.]
08.11.2023

Neutral Citation : Yes/No

Index : Yes/No

Internet : Yes/No

MR



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To

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- 3.The Inspector of Police,
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Thirupparankundram,
Madurai City.
- 4.The Chairperson,
Child Welfare Committee,
Government Annai Satya Children's Home,
Dr.Thangraj Salai, K.K.Nagar,
Madurai – 625 020.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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

MR

ORDER MADE IN
H.C.P.(MD)No.1292 of 2023

08.11.2023