



HCP(MD)No.1328 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.11.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.SUNDAR

and

THE HONOURABLE MR.JUSTICE R.SAKTHIVEL

H.C.P.(MD)No.1328 of 2023

Saburamal

: Petitioner

Vs.

1.State rep. by

The Superintendent of Police,
Dindigul District, Dindigul.

2.The Inspector of Police,

Town South Police Station,
Dindigul, Dindigul District.

3.Kasim

4.Aameena

: Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus, to direct the respondent1 and 2 to produce the person or body of Jarina, D/o.Kadhar Mydeen, aged abut



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18 years, daughter of the petitioner from the illegal custody of third respondent before this Hon'ble Court.

For Petitioner : Mr.S.Maya Perumal
For Respondents 1 & 2 : Mr.R.Meenakshi Sundaram
Additional Public Prosecutor
For Respondents 3 & 4 : Mr.A.Mohamed Riyaz

O R D E R

[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 30.10.2023.

2.Factual matrix in a nut shell is that HCP petitioner's daughter Jarina [Jarina shall hereinafter be referred to as 'absentee' solely for the sake of convenience] aged 18 years [date of birth is 07.05.2005] according to the petitioner is missing from 11.10.2023; that the petitioner lodged a complaint on 12.10.2023 in the Town South Police Station, Dindigul and an FIR vide Crime No.232/2023 [woman missing] was registered; that according to HCP petitioner, the third respondent has abducted the absentee [to be noted, third respondent is a private respondent]; that the mother of third respondent Ms.Aameena has been arrayed as fourth respondent though there is



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no specific averment in the affidavit that fourth respondent is mother of third respondent; that alleging illegal detention / unlawful custody of absentee by third respondent captioned HCP has been filed.

3.Today, Mr.S.Maya Perumal learned Counsel on record for the petitioner is before us. Learned Counsel adverted to the aforesaid facts and reiterated the habeas prayer.

4.Issue notice.

5.Mr.R.Meenakshi Sundaram, learned State Prosecutor accepted notice for official respondents [respondents 1 and 2]. Mr.A.Mohamed Riyaz, with address for service at No.4, Sonai Muthu Servai Tower, Melur Road, Othakadai, Madurai, who was present in Court accepted notice for respondents 3 and 4 [private respondents]. The petitioner is not present in Court but learned Counsel for petitioner is before us as alluded to supra. Learned Prosecutor is instructed by Mr.S.Elenchezian, Inspector of Police, Town South Police Station, Dindigul. The third respondent is also present in Court.

6.Learned Prosecutor submitted that the absentee has been located and the absentee was produced before us.



7.We had interactions with the absentee and the third respondent. This Bench also collected some details from the officer instructing the learned Prosecutor.

8.The following points emerge from the interactions:

a) The absentee has gone with the third respondent voluntarily on her own volition. To be noted, the absentee is a major, her date of birth being 07.05.2005 [18 years];

b) The third respondent is also a major, his date of birth being 04.07.1996 [27 years];

c) The absentee and the third respondent submit in one voice that they are married, the marriage was on 11.09.2023 in a local temple in Sivagangai and that they want to continue the matrimonial tie;

d) The absentee also made it clear that she wants to continue and pursue her education;

e) The third respondent was married earlier but the third respondent says that there has been a customary divorce ['Khula'] and that the child from that wedlock is with his estranged spouse;

f) The absentee expressed fear of high handed action from her maternal uncle.



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9.In the light of the narrative thus far, it is clear that this is not a case of illegal detention or unlawful custody. The absentee is clearly major.

10.In the light of the apprehension of threat, without expressing any opinion about the correctness or otherwise of the same, as a habeas Court we only deem it appropriate to say that the jurisdictional police shall be live to the situation.

11.The captioned HCP is disposed of as closed. There shall be no order as to costs.

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

03.11.2023

Neutral Citation : Yes

Index : Yes

Internet : Yes

MR



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To

- 1.The Superintendent of Police,
Dindigul District,
Dindigul.
- 2.The Inspector of Police,
Town South Police Station,
Dindigul, Dindigul District.
- 3.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
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03.11.2023