



HCP(MD)No.1338 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 01.12.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.SUNDAR

and

THE HONOURABLE MR.JUSTICE R.SAKTHIVEL

H.C.P.(MD)No.1338 of 2023

Rajalakshmi

: Petitioner

Vs.

1.The Superintendent of Police,
Theni District.

2.The Inspector of Police,
Theni Police Station,
Theni District.

3.Karuppaiah

: Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, directing the respondents to produce the person or body of the petitioner's son namely Srikanth, S/o.Balamurugan, Male aged about 21 years before this Hon'ble Court and set him at liberty forthwith.



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For Petitioner : Mr.A.Uthaya Kumar

For Respondents : Mr.R.Meenakshi Sundaram,
Addl. Public Prosecutor

ORDER

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

This order has to be read in conjunction with and in continuation of earlier proceedings made in the previous listings on 06.11.2023 and 15.11.2023.

2. Adverting to aforementioned earlier proceedings, Mr.A.Uthaya Kumar, learned counsel submits that he is not in a position to assist the Court today.

3. Learned counsel submits that short facts are that petitioner is a single parent; that petitioner's 21 years old son 'Srikanth' (hereinafter 'absentee' for the sake of convenience) is missing from 07.09.2023; that a compliant has been given on 09.09.2023 and the complaint has been taken



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on file vide FIR in Crime No.453 of 2023 on the file of Theni Police Station, Theni District; that fearing illegal detention / unlawful custody of absentee by third respondent, captioned HCP has been filed (To be noted, third respondent is a private respondent and he is HCP petitioner's estranged husband; it is also to be noted that HCP petitioner's estranged husband since married another lady).

4. Issue notice to official respondents.

5. Mr.R.Meenakshi Sundaram, learned Additional Public Prosecutor accepts notice for official respondents (respondents 1 and 2) and he is instructed by Mr.M.Murugan, Sub Inspector of Police, Theni Police Station, Theni District.

6. On instructions, learned Additional Public Prosecutor submits that investigation has been kick started pursuant to aforementioned FIR in Crime No.453 of 2023 and preliminary investigation does not reveal any trappings of illegal custody or unlawful detention but the investigation continues. Let the investigation continue in accordance with law.



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7. Learned Additional Public Prosecutor submits that twelve (12) weeks would be a reasonable time frame to carry the investigation to its logical end.

8. To be noted, absentee is a major and he is 21 years old.

9. In the light of the unique facts and circumstances of the case, we deem it appropriate to make the following order:

'i) Let the investigation pursuant to FIR in Crime No. 453 of 2023, dated 09.09.2023 proceed in accordance with law;

ii) On absentee being located let the absentee be produced before the jurisdictional Magistrate (we are informed that the jurisdictional Magistrate is learned Judicial Magistrate, Theni) with prior intimation to HCP petitioner; and



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iii) Learned Judicial Magistrate shall record the statement of the absentee and or any other person deemed appropriate by the Magistrate.

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

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

01.12.2023

Neutral Citation : Yes
Index : Yes
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- 1.The Superintendent of Police,
Theni District.
- 2.The Inspector of Police,
Theni Police Station,
Theni District.
- 3.The Judicial Magistrate,
Theni.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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