



HCP(MD)No.1384 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 10.11.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.SUNDAR

and

THE HONOURABLE MR.JUSTICE R.SAKTHIVEL

H.C.P.(MD)No.1384 of 2023

Malarraj

: Petitioner

Vs.

1.The Superintendent of Police,
Sivagangai,
Sivagangai District.

2.The Inspector of Police,
Manamadurai Police Station,
Manamadurai Taluk,
Sivagangai District.

3.Laxmanan

: Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, directing the Respondents 1 and 2 to produce the person or body of the petitioner's wife namely, Banupriya aged about 34 years before this Court and set her at liberty forthwith.



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HCP(MD)No.1384 of 2023

For Petitioner : Mr.K.Prabhu

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 brevity] has been filed in this Court on 07.11.2023.

2. Short facts are that the petitioner's 34 years old wife, who left home on 11.05.2023 has not returned; that according to HCP petitioner, his wife 'Banupriya' [we shall be referring to petitioner's wife as 'absentee' for the sake of convenience] is friendly with the third respondent [to be noted, third respondent is a private respondent]; that there are two children, daughter aged 13 years 'xxxx' and son aged 8 years 'yyyy' from the wedlock between HCP petitioner and absentee; that 'xxxx' and 'yyyy' are now with the HCP petitioner; that the absentee's parents [HCP petitioner's in law]



HCP(MD)No.1384 of 2023

have also lodged a complaint on 11.06.2023 before Manamadurai Police Station, Manamadurai Taluk, Sivagangai District and the same is Crime No. 234 of 2023; that the complaint lodged by HCP petitioner in the same Police Station is Crime No.163 of 2023, dated 12.05.2023; that the captioned HCP has been filed in this Court on 07.11.2023 as already alluded to supra.

3. Today, Mr.K.Prabhu, learned counsel for HCP petitioner, who is before us adverted to the aforementioned facts.

4. Issue notice to official respondents. Mr.R.Meenakshi Sundaram, learned Additional Public Prosecutor accepted notice on behalf of the official respondents (respondents 1 and 2). Learned Additional Public Prosecutor, on instructions, submits that preliminary investigation reveals that it is a case of marital discard between HCP petitioner and absentee.

5. Let the investigation proceed in accordance with law but as this is not a case of illegal detention / unlawful custody, we deem it appropriate to give the closure to the captioned HCP albeit preserving all the rights and contentions of the HPC petitioner to approach the appropriate



HCP(MD)No.1384 of 2023

Court/s/Forum/Fora/Authority/Authorities such as family Court. We are acutely conscious that the captioned matter is being disposed of now but the third respondent is not before us. Therefore though obvious we make it clear that all the rights and contention of the third respondent is also preserved for being canvassed before the Court/s/Forum/Fora/Authority/Authorities if there is any other collateral or connected proceedings.

6. Learned counsel for HCP petitioner has made an endorsement in the case file and a scanned reproduction of the same is as follows:

A
3
I please the
may the court may
pleased to interfere.
10/11/23.
(K. Prabhakar)



HCP(MD)No.1384 of 2023

7. Learned counsel made a request that all the rights and contention of the parties may be preserved for being canvassed in an appropriate Court/s/Forum/Fora/Authority/Authorities. As the two minor children are now with the HCP petitioner, we deem it appropriate to dispose of the captioned HCP as closed/ withdrawn.

8. Captioned HCP is closed / withdrawn albeit with the aforementioned observations and preservations of rights in the aforesaid manner. There shall be no order as to costs.

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

10.11.2023

Neutral Citation : Yes/No
Index : Yes/No
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M.SUNDAR, J.

and

R.SAKTHIVEL, J.

vsm

To

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

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