



HCP(MD)No.1443 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 11.12.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.SUNDAR

and

THE HONOURABLE MR.JUSTICE R.SAKTHIVEL

H.C.P.(MD)No.1443 of 2023

Mrs.Panchavarnam

: Petitioner

Vs.

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

2.The Inspector of Police,
Saaligramam Police Station,
Sivagangai.

3.Balamurugan

4.The District Child Protection Officer,
Child Welfare Committee,
Madurai District.
(Collectorate Campus).
(4th respondent suo motu impleaded as per
the order of this Court dated 11.12.2023)

: Respondents



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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 body or person of petitioner's minor daughter namely Pavithra, D/o.Panchacharam, aged about 17 years before this Hon'ble Court and hand over her custody to the petitioner.

For Petitioner : Mr.P.Arockia Richard for
Mr.A.Joseph Jerry

For Respondents : Mr.R.Meenakshi Sundaram,
Addl. 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 16.11.2023.

2. Captioned HCP was listed in the Admission Board on 23.11.2023 before another Hon'ble co-ordinate Division Bench and the following order was made:



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No.	Date	Main Case / Misc. Case No.	Order Notes, Reasons, Orders or Proceedings with Signature
	23/11/23	HCP (MD) No. 1443/23	<u>Smrj & Vant</u> Mr. S. Ravi, learned APP. takes notice of the respondents 1 & 2 and seeks time to file support. Post after two weeks for filing support. Support - 8/12 By Yuv.

3. It has now become necessary to set out factual matrix.

4. Factual matrix in a nutshell is that HCP petitioner's minor daughter 'xxxx' (we are masking the name of HCP petitioner's minor daughter and we shall be referring to her as 'absentee' for the sake of convenience and clarity) is missing; that the 'date of birth' ('DOB' for the sake of brevity) of absentee is 14.06.2006; that absentee was missing from 03.04.2023; that a complaint was given *inter alia* saying that absentee has been abducted by third respondent (to be noted third respondent is petitioner's maternal uncle); that third respondent is HCP petitioner's spouse Thiru.Panchacharam's blood sister Mrs.Selvi's son; that absentee was located vide proceedings of Child



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Welfare Committee dated 21.04.2023, bearing reference Case No.63/2023; that thereafter, absentee was with HCP petitioner and her spouse from 05.05.2023; that absentee is now again missing from 18.05.2023; that captioned HCP has been filed *inter alia* fearing abduction, illegal detention and unlawful custody by third respondent.

5. Pursuant to the aforementioned trajectory and aforementioned admission Board order, today, the absentee was produced before us.

6. In the hearing today, HCP petitioner (Panchavarnam) her spouse (Panchacharam), learned counsel for HCP Petitioner (Mr.P.Arockia Richard, learned counsel representing the counsel on record Mr.A.Joseph Jerry), learned Additional Public Prosecutor (Mr.R.Meenakshi Sundaram), instructed by Mr.G.Premkumar, Sub-Inspector of Police, Saalaigramam Police Station and third respondent's mother Mrs.Selvi. (wife of Thiru Angusamy) were all present before the Court.

7. This Bench had an interaction with the absentee and the absentee had the following to say:



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i) absentee confirms that third respondent is her maternal uncle (exact blood relationship already captured supra);

ii) absentee says that she left home on her own volition voluntarily and she was neither abducted nor kidnapped much less abducted or kidnapped by third respondent;

iii) absentee says that she was physically assaulted by her parents (HCP petitioner and her spouse) after the previous episode and therefore, she left home;

iv) absentee does not want to go with her parents; and

v) absentee wants to go with third respondent's mother

8. In the light of the narrative thus far considering that absentee is a minor as of today (DOB is 14.06.2006), we make the following order:

i) absentee shall now be lodged in St.Patricks Home,



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Near Serungeri Madam, Bye-pass Road, Madurai City and this will be facilitated by One Stop Centre, Madurai with whom the learned Additional Public Prosecutor shall interact and do the needful for lodging the absentee in this home;

ii) absentee will remain in the aforesaid home till attaining majority;

iii) after attaining majority, it is for the absentee to make a choice;

iv) we refrain from expressing any opinion on absentee's statement that she was assaulted by her parents but we make it clear that if any medical attention is required for the absentee, the same shall be given as she complains of pain in her limbs owing to alleged assault by her parents;

v) we implead The District Child Protection Officer, Child Welfare Committee, Madurai District (Collectorate Campus) *suo motu* as fourth respondent;



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vi) fourth respondent shall monitor the needs of absentee and also take necessary steps if she wants to continue her education;

vii) the aforementioned Home shall permit visitation by the parents of absentee only if the absentee is inclined to meet them; and

viii) the aforementioned Home or fourth respondent shall not hand over or send the absentee with the HCP petitioner and / or her spouse without leave of this Court until she attains majority.

9. To be noted, in the case of ***K.Subramani Vs. The Commissioner of Police, Madurai, Madurai District and five others*** (H.C.P.(MD)No.1240 of 2023, dated 28.11.2023), this Bench by relying on an earlier reported Division Bench order has held that a minor child cannot be compelled to go with her parents, if she is not inclined to do so.



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10. Though obvious, we make it clear that all the rights and contentions of all the parties particularly HCP petitioner, HCP petitioner's spouse, third respondent, third respondent's mother and or any one else concerned with the matter are preserved qua any connected / collateral proceedings. In other words, connected / collateral proceedings (if any) shall proceed on its own merits and in accordance with law dehors the closure of captioned HCP as the captioned HCP is a habeas legal drill and instant order has been made for the limited purpose of giving a closure to the habeas legal drill.

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

[M.S.,J.] & [R.S.V.,J.]
11.12.2023

Neutral Citation : Yes
Index : Yes
vsm

Note: (i) Upload forthwith

(ii) All concerned to act on this order being uploaded in official website of this Court without insisting on certified copies. To be noted, this order when uploaded in official website of this Court will be watermarked and will also have a QR code.

(iii) Registry to carryout necessary and consequential amendment in the case file and also in the order before uploading / before issuing of certified copies.



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To

- 1.The Superintendent of Police,
Sivagangai District,
Sivagangai.
- 2.The Inspector of Police,
Saaligramam Police Station,
Sivagangai.
- 3.The District Child Protection Officer,
Child Welfare Committee,
Madurai District.
(Collectorate Campus).
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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