



HCP(MD)No.1434 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 29.11.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.SUNDAR

and

THE HONOURABLE MR.JUSTICE R.SAKTHIVEL

H.C.P.(MD)No.1434 of 2023

Suyambu @ Suyambulingam

: Petitioner

Vs.

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

2.The Inspector of Police,
ST Kulam Police Station,
Kanyakumari District.

: Respondents

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 detenus by name Muthu Asha (wife), aged about 34 years, AnuShri (Daughter) aged about 11 years, Parthisha (Daughter)



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aged about 9 years, Amithesh (son) aged about 7 years before this Hon'ble Court and set them at liberty.

For Petitioner : Mr.D.S.Haroon Rasheed

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

ORDER

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

Read this in conjunction with and in continuation of earlier proceedings made in the previous listing on 22.11.2023, which reads as follows:

'Captioned 'Habeas Corpus Petition' ['HCP' for the sake of brevity] has been filed in this Court on 17.11.2023.

2. Short facts are that HCP petitioner married one Muthu Asha ['Muthu Asha' shall hereinafter be referred to as 'wife absentee']; that from this wedlock, there are three children ie., two daughters and one son, aged 11 years, 9 years and 7 years respectively ['the children' shall be referred to as 'children absentee']; that there was a marital discord between HCP



petitioner and wife absentee; that fearing illegal detention of children absentee, captioned HCP has been filed.

3. Issue notice.

4. Mr.R.Meenakshi Sundaram, learned Additional Public Prosecutor accepts notice on behalf of both the respondents and he is instructed by Mr.O.Vijayakmar, Sub-Inspector of Police, ST Kulam Police Station, Kanyakumari District.

5. Learned Additional Public Prosecutor submits that acting on HCP petitioner's complaint lodged in ST Kulam Police Station, Kanyakumari District, being complaint dated 17.05.2023 [Crime No.64 of 2023 for women missing, girl missing and boy missing], investigation was kick-started and in the investigation it came to light that wife absentee along with children absentee is now in her brother's residence in Chennai.

6. Learned Additional Public Prosecutor submits that the complaint was closed as FAD [further action dropped] and HCP petitioner has also been favoured with the copy of the final report.

7. In the above backdrop, Mr.D.S.Haroon Rasheed, learned counsel on record for HCP petitioner very fairly submitted that if it is now a family marital discord and a tussle for custody or visitation rights qua wife absentee and children absentee, HCP petitioner will approach the appropriate Court but his only concerned is he wants to know the whereabouts of the wife absentee and children absentee.

8. Learned Additional Public Prosecutor has placed before us a statement from the wife absentee which led to the



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FAD but the address and phone number are not clear in the same. Learned Additional Public Prosecutor requested for a short accommodation to ascertain the exact address where the wife absentee and children absentee are residing and place it before the Court in the form of a report. Request acceded to. List one week hence.

9. List on 29.11.2023.'

2. Today, Mr.D.S.Haroon Rasheed, learned counsel for HCP petitioner and Mr.R.Meenakshi Sundaram, learned State Additional Public Prosecutor for the respondents are before us.

3. Adverting to aforementioned earlier proceedings dated 22.11.2023, more particularly paragraph 8 thereat, learned Additional Public Prosecutor submits that the address where wife absentee and children absentee are now residing is as follows:

'Door No.55, 1st Street, S.S.Puram, Purasaivakkam, Chennai.'

4. Learned counsel for HCP petitioner very fairly submitted that he will workout his remedy in family Court GAWA Court (to be noted, 'GAWA' stands for 'Guardians and Wards Act, 1890') or any other appropriate



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Court/s/Forum/Fora/Authority/Authorities.

If any other

Court/s/Forum/Fora/Authority/Authorities are moved, it shall consider the matter on its own merits and in accordance with law untrammelled by the proceedings in the captioned Habeas Corpus Petition.

5. Captioned Habeas Corpus Petition is disposed of as closed with the aforementioned observations and preservation of rights in the aforesaid manner. There shall be no order as to costs.

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

29.11.2023

Neutral Citation : Yes
Index : Yes
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To

- 1.The Superintendent of Police,
Office of the Superintendent of Police,
Kanyakumari District.
- 2.The Inspector of Police,
ST Kulam Police Station,
Kanyakumari District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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