



HCP(MD)No.1484 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.12.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.SUNDAR

and

THE HONOURABLE MR.JUSTICE R.SAKTHIVEL

H.C.P.(MD)No.1484 of 2023

Radhiya Banu

: Petitioner

Vs.

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

2.The Inspector of Police,
All Women Police Station,
Dindigul,
Dindigul District.

3.Rahmad Beevi

4.Sakkarai Kani

5.The Regional Passport Officer,
Madurai.



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6.The Immigration Officer,
Haddows Road,
Chennai.

: Respondents

[R5 and R6 are suo motu impleaded as per order of the Court dated 28.11.2023.]

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus, directing the first and second respondents herein to produce the person or body of the detainee namely Sayed Abutahir, S/o.M.Abbas aged about 39 years before this Court and set him at liberty forthwith.

For Petitioner : Mr.S.Bharathy Kannan
For Respondents 1&2 : Mr.R.Meenakshi Sundaram
Additional Public Prosecutor
For Respondents 3&4 : Mr.S.M.A.Jinnah
For Respondents 5&6 : Mr.K.Govindarajan
Deputy Solicitor General of India

O R D E R

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

Captioned matter was listed in the Admission Board on 28.11.2023 and the following order was made:



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and

R.SAKTHIVEL., J.

ORDER

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

Captioned 'Habeas Corpus Petition' ['HCP' for the sake of brevity] has been presented in this Court on 21.11.2023.

2. Factual matrix in a nutshell is HCP petitioner married one Mr.Sayed Abutahir on 21.09.2016; that 'Mr.Sayed Abutahir' shall be referred to as 'absentee' for the sake of convenience; that according to HCP petitioner, the marital tie turned sour very quickly owing to alleged demand of dowry and additional dowry by absentee's mother [third respondent], absentee's brother [fourth respondent] and other members of the family of absentee; that respondent No. 3 is mother of absentee and respondent No.4 is brother of absentee but this has not been set out anywhere in 6 pages 10 paragraphs affidavit filed in support of captioned HCP; that therefore, we deem it appropriate to record this statement made by Mr.S.Bharathy Kannan, learned counsel at the bar; that owing to the marital relationship turning sour, there are as many as four proceedings between HCP petitioner and the absentee and they are:

a) C.C.No.35 of 2021 on the file of Additional Women's Court, Dindigul;

b) Crl.O.P.(MD)No.287 of 2019 on the file of this Court filed by one Fathima and S.Nashira Banu (sisters of absentee, who have been arrayed as A3 and A4 in C.C.No.35 of 2021);

c) D.V.C.No.12 of 2018 on the file of Judicial Magistrate, Vendasandur; and



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d) M.C.No.16 of 2019 on the file of Judicial Magistrate, Veda sandur; that there is an exparte order in the maintenance case i.e, M.C.No.16 of 2019; that absentee has not appeared in any of the proceedings; that in C.C.No.35 of 2021 on the file of Additional Women's Court, Dindigul, charge sheet has since been filed but the absentee remains unserved; that according to HCP petitioner the absentee is allegedly in illegal detention / unlawful custody of respondents 3 and 4 absentee's mother and brother respectively; that captioned HCP has been presented in this Court on 21.11.2023 under such circumstances.

3. Issue notice to official respondents.

4. Mr.R.Meenakshi Sundaram, learned Additional Public Prosecutor accepts notice for respondents 1 and 2 and learned Additional Public Prosecutor is instructed by second respondent.

5. Learned Additional Public Prosecutor, on instructions, submitted that every effort is being taken to locate the absentee. Learned counsel for petitioner informed this Court that absentee was working in Brunei prior to wedding. Therefore, we deem it appropriate to suo motu implead the Regional Passport Officer, Madurai and Immigration Officer, Haddows, Chennai as respondents 5 and 6 respectively.

6. Mr.K.Govindarajan, learned Deputy Solicitor General accepted notice for respondents 5 and 6.



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7. We give the following directives:

(a) respondents 5 and 6 to locate the passport of the absentee based on available data which shall be furnished by learned counsel for petitioner to learned Additional Public Prosecutor;

(b) ascertain if any visa has been issued in the recent past; and

(c) Respondents 5 and 6 to file a report in this regard in the next listing.

8. In the interregnum, second respondent to continue with the investigation and petitioner shall furnish all details and co-operate with the second respondent for furthering the investigation and carrying it to its logical end.

9. List a fortnight hence. List on **12.12.2023.'**

2.Thereafter there was one listing on 12.12.2023 and the captioned HCP was re-notified.

3.In the hearing today, Mr.S.Bharathy Kannan, learned Counsel for HCP petitioner, HCP petitioner, Mr.R.Meenakshi Sundaram, learned State Additional Public Prosecutor for respondents 1 and 2 [official respondents], Mr.S.M.A.Jinnah, learned Counsel for respondents 3 and 4 [mother of absentee and brother of absentee] and Mr.K.Govindarajan, learned Deputy Solicitor General of India for the impleaded fifth respondent are before us.

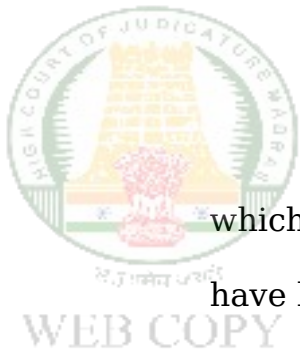


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4.As regards the directive given vide paragraph No.7 of our 28.11.2023 order, it is really not necessary to go into the same as Mr.S.M.A.Jinnah learned Counsel for respondents 3 and 4 submitted that the absentee is now working in a hotel in Malaysia and that his address and phone number are as follows:

*'Restoran Jamilah,
Block 'e' ground floor,
Lot 6 Jalian Labuk,Innam,
Kota Kina Balu,
Sabah, 88000 Code number.
Ph: 0060165767250'*

5.Be that as it may, learned Counsel for respondents 3 and 4 made a video call [outside the Court hall], the HCP petitioner and absentee spoke to each other. This is confirmed by Mr.S.Bharathy Kannan, learned Counsel for HCP petitioner and Mr.S.M.A.Jinnah, learned Counsel for respondents 3 and 4. We do not want to delve further into the matter as it is not a case of illegal detention or unlawful custody and it is a case of marriage discord. This means that the parties namely HCP petitioner and her spouse Sayed Abutahir have to work out their remedies *inter alia* in the four proceedings



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which have already been initiated. To be noted, the four proceedings have been captured in our earlier proceedings dated 28.11.2023.

6.We make it clear that the aforementioned Court / Courts / Forum / Fora / Authority / Authorities before whom the four proceedings are pending and / or any other Court / Courts / Forum / Fora / Authority / Authorities if approached shall, if approached shall proceed with the matter de hors / uninfluenced by the instant order which has been made for the limited purpose of giving a closure to captioned HCP.

7.We also make it clear that it is open to the HCP petitioner and or any other party to seek mediation in the four proceedings captured in paragraph No.2 of 28.11.2023 proceedings and / or through any other means available to the HCP petitioner. We also make it clear that all the rights and contentions of the HCP petitioner as well as Mr.Sayed Abutahir, spouse of HCP petitioner are preserved for being canvassed in the connected / collateral proceedings.



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8.Captioned HCP is disposed of in the aforesaid manner with the aforesaid preservation of rights. There shall be no order as to costs.

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

18.12.2023

Index : Yes/No

Internet : Yes/No

Neutral Citation : Yes/No

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To

- 1.The Superintendent of Police,
Office of the Superintendent of Police,
Madurai District.

- 2.The Inspector of Police,
Palamedu Police Station,
Madurai 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
H.C.P.(MD)No.1484 of 2023

18.12.2023