



H.C.P(MD)No.1502 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 01.12.2023

Coram

THE HON'BLE MR.JUSTICE **M.SUNDAR**
and
THE HON'BLE MR. JUSTICE **R.SAKTHIVEL**

H.C.P(MD)No.1502 of 2023

K.Jayabharathi

.. Petitioner

VS

1.The Commissioner of Police,
Office of the Commissioner of Police,
Alagarkovil Road, Madurai,
Madurai City.

2.The Inspector of Police,
Thallakulam Police Station,
Madurai City.

.. Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Habeas Corpus directing the respondents herein to produce the body or person of petitioner's mother-in-law G.Rajeshwari, W/o.Late.Govindaraman, aged about 68 years before this Court and set her at liberty within the time stipulated by this Court.



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For Petitioner

: Mr.C.Gangai Amaran

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For Respondents

: Mr.R.Meenakshi Sundaram
Additional Public Prosecutor

ORDER

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

Captioned 'Habeas Corpus Petition' [hereinafter 'HCP' for the sake of brevity] has been filed in this Court on 28.11.2023.

2.Factual matrix in a nutshell is that HCP petitioner married one Dr.G.Karthik, who was a Medical Practitioner and working in Government Rajaji Medical College Hospital, Madurai; that from this wedlock, they have a daughter 'XXX', who is now 3 years old; that HCP petitioner's spouse unfortunately died on 31.01.2022; that during lifetime of HCP petitioner's spouse, HCP petitioner and her spouse were living together at Door No.125, Mahalakshmi Nagar 3rd Street, Moondrumavadi, Iyer Bungalow Road, Madurai which according to HCP petitioner is her parents-in-law's place; that after the unfortunate demise of HCP petitioner's spouse on 31.01.2022, HCP petitioner moved to Door No.18-1, Pandiyan Nagar, Melur Town and Taluk, Madurai District; that thereafter more than 1-1/2 years later in July



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2023, HCP petitioner says that she went over to her parents-in-law's house and found the same locked and found that her mother-in-law Mrs.G.Rajeshwari was not there; that HCP petitioner's mother-in-law shall hereinafter be referred to as '*absentee*' for the sake of convenience; that absentee is 68 years old; that thereafter HCP petitioner lodged a complaint with Thallakulam Police Station on 08.07.2023 and the same was taken on file as Crime No.772 of 2023 and a First Information Report (woman missing) was registered; that there is a specific averment in the affidavit by HCP petitioner that some jewelry, furniture and valuables were with absentee; that under such circumstances captioned HCP has been filed in this Court on 28.11.2023.

3.Issue notice.

4.Mr.R.Meenakshi Sundaram, learned Additional Public Prosecutor accepts notice for both respondents.

5.Learned Prosecutor is instructed by second respondent ie., Mr.Balamurugan, Inspector of Police, Thallakulam Police Station,



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Madurai. On instructions, learned Prosecutor submits that aforementioned 08.07.2023 complaint resulted in an investigation being kick-started. Learned Prosecutor submits that investigation thus far brings to light that there are no trappings of illegal detention or unlawful custody but every effort is being made to locate absentee. Learned Prosecutor adverting to Case Diary (CD) submits that mobile phone that was being used by absentee is switched off from 01.05.2023 but we do not want to delve further into CD, as the investigation is underway.

6.It is also to be noted that even according to HCP petitioner, there is no averment or allegation of illegal detention or unlawful custody by anyone in the support affidavit qua captioned HCP.

7.Faced with the above situation, learned counsel sought leave of this Court to withdraw captioned HCP. Learned counsel has made an endorsement in the case file and a scanned reproduction of the same is as follows:



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My claim is ready
to cooperate with the
investigating agency for
issuing of Petition in-law
and recovery of articles
and may be permit to
withdraw the present
Habeas corpus petition. C. S. 10000 10000
Counsel for petitioner

8. In the light of the narrative thus far, captioned HCP is disposed of as closed/withdrawn albeit with the observation that investigation will proceed in accordance with law. It is also made clear that all the rights and contentions of HCP petitioner and/or anyone concerned with this matter are preserved for any connected or collateral proceedings in any other Court/Courts/Fora/Forum/Authority/Authorities which shall deal with such matters on its own merits and in accordance with law.

9. We also make it clear that rights of the petitioner and/or anyone concerned for absentee are preserved for coming to this Court again with same/similar prayer, if there is any change of circumstances.



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10.Captioned HCP is disposed of as closed/withdrawn albeit with 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.)
01.12.2023

Index : Yes/No
Neutral Citation : Yes/No
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 - 2.The Inspector of Police,
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 - 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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M.SUNDAR, J.,
and
R.SAKTHIVEL, J.,

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