



HCP(MD)No.1576 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 18.12.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.SUNDAR

and

THE HONOURABLE MR.JUSTICE R.SAKTHIVEL

H.C.P.(MD)No.1576 of 2023

R.Rajamuni

: Petitioner

Vs.

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

2.The Inspector of Police,
Town Police Station,
Srivilliputtur,
Virudhunagar 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 detinue / petitioner's wife and daughter viz., Sudha, W/o.Rajamuni and Mithula, D/o.Rajamuni, aged about 35 and 5 years respectively before this Hon'ble Court so as to set them at liberty.



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HCP(MD)No.1576 of 2023

For Petitioner : Mr.S.Venkatesh

For Respondents : Mr.R.Meenakshi Sundaram,
Addl. Public Prosecutor for R1 & R2

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 12.12.2023.

2. Factual matrix in a nutshell is that HCP petitioner married one Sudha ('Sudha' shall hereinafter be referred to as 'wife absentee' for the sake of convenience and clarity) on 28.11.2007; that the marriage was solemnized in Ramaraj Mahal at Srivilliputtur; that HCP petitioner and wife absentee were blessed with a girl child on 25.12.2018; that the girl child is xxxxx and we shall be referring to 'xxxxx' as 'child absentee' for the sake of convenience and clarity; that wife absentee and child absentee are missing from 05.12.2023 is HCP petitioner's case; that HCP petitioner has lodged a complaint in P1, Srivilliputtur Town Police Station, Virudhunagar District; that this was taken on file as Crime No.530 of 2023 dated 07.12.2023 (woman missing girl missing); that thereafter HCP petitioner sent a representation to the first respondent being representation dated 09.12.2023;



HCP(MD)No.1576 of 2023

that according to HCP petitioner, while sending this representation on 09.12.2023, (after lodging of FIR), he came to know that the wife absentee and child absentee may be in illegal detention of one Palsamy, son of Duraisamy of Rajapalayam; that captioned HCP petition has been filed fearing illegal detention / unlawful custody of wife absentee and child absentee by said Palsamy, son of Duraisamy of Rajapalayam.

3. Issue notice.

4. Mr.R.Meenakshi Sundaram, learned Additional Public Prosecutor accepted notice for both the respondents and learned Additional Public Prosecutor is instructed by Mr.M.Sangliraj, Special Sub-Inspector of Police, Srivilliputtur Town Police Station.

5. Before we proceed further, we make it clear that HCP petitioner ought to have added / arrayed Thiru.Palsamy, son of Duraisamy as a co-respondent. HCP petitioner has not done this and therefore, HCP petition is liable to be dismissed on this sole ground but learned Additional Public Prosecutor submitted that wife absentee and child absentee are present in Court and that it is not a case of illegal detention or unlawful custody.



HCP(MD)No.1576 of 2023

6. Therefore, we are taking up the main HCP with the consent of both sides making it clear that we preserve all the rights of Palsamy, son of Duraisamy.

7. In the hearing today, Thiru.Rajamuni HCP petitioner, Mr.S.Venkatesh, learned counsel on record for HCP petitioner, Mr.R.Meenakshi Sundaram, learned Additional Public Prosecutor, instructed by Mr.M.Sangliraj, Special Sub-Inspector of Police, Srivilliputtur Town Police Station, wife absentee Sudha (date of birth 10.09.1988) and child absentee xxxxx born in December of 2018, who is now five years of age as of today and who would be turning six in a week from now, along with one Ms.Muthulakshmi, mother of wife absentee were present in Court.

8. This Court had an interaction with wife absentee, HCP petitioner one after other and thereafter, an interaction with wife absentee and HCP petitioner together. From the interaction, the following points emerged:

- a) wife absentee had left home on her own volition voluntarily and it is not a case of kidnap or illegal detention or unlawful custody;



HCP(MD)No.1576 of 2023

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b) wife absentee was not kidnapped by any one much less by Thiru.Palsamy, son of Duraisamy of Rajapalayam;

c) that wife absentee left home owing to some minor displeasure with HCP petitioner;

d) the minor displeasure between HCP petitioner and his spouse has been sorted out and the wife absentee and HCP petitioner now say that they would live in harmony as husband and wife with the child absentee; and

e) HCP petitioner and wife absentee assure this Court that they will be good care givers for child absentee and ensure that child absentee (girl child) will be given education and they will support her education.

9. The narrative thus far makes it clear that there is a happy ending for the episode which has necessitated the filing of captioned HCP albeit with the informative of not adding the private respondents but it also curtains down qua captioned HCP.



HCP(MD)No.1576 of 2023

10. Though obvious we make it clear that all the rights and contentions of Thiru.Palsamy, son of Duraisamy would stand preserved if there is any collateral or connected proceedings.

11. Captioned HCP is disposed of as closed recording / capturing what unfurled in the Admission Board hearing today and closing the same saying that this is not a case of illegal detention or unlawful custody. There shall be no order as to costs.

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

18.12.2023

Neutral Citation : Yes
Index : Yes
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HCP(MD)No.1576 of 2023

To

- 1.The Superintendent of Police,
Madurai District,
Madurai.
- 2.The Inspector of Police,
Vikiramalingam Police Station,
Vikiramalingam,
Madurai District.



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HCP(MD)No.1576 of 2023

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