



HCP(MD)No.1604 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 21.12.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.SUNDAR

and

THE HONOURABLE MR.JUSTICE R.SAKTHIVEL

H.C.P.(MD)No.1604 of 2023

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: Petitioner

Vs.

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

2.The Inspector of Police,
Keeranur Police Station,
Dindigul District.

3.Sri Varthini

4.Saraswathi

5.Arumugam

6.Kattappan

: 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 the petitioner's son namely Sanakkian, S/o.Nagamuthu, aged about 19 years before this Court and set him at liberty.

For Petitioner : Ms.J.Balameenakshi

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 18.12.2023.

2. Short facts shorn of particulars (not imperative for appreciating this order) are that HCP petitioner's son Sanakkian, aged 19 years (date of birth 29.09.2004), according to HCP petitioner is missing from 05.12.2023; that HCP petitioner's son Sanakkian shall be referred to as 'absentee' for the sake of convenience and clarity; that HCP petitioner has lodged a complaint in this regard in K2-Keeranur Police Station on 09.12.2023 followed by a



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representation to first respondent (representation dated 15.12.2023); that according to HCP petitioner, absentee has been forcibly kidnapped and detained by respondents 3, 4 and 5 (private respondents); that it is to be noted that third respondent is a 19 years old girl, respondents 4 and 5 are her mother and father (parents); that it is to be noted that there is no averment in the support affidavit that respondents 4 and 5 are parents of respondent No. 3 but this submission was made by Ms.J.Balameenakshi, learned counsel on record for HCP petitioner in the hearing.

3. In the Admission Board hearing today, Ms.J.Balameenakshi, learned counsel on record for HCP petitioner reiterated the aforesaid facts.

4. Issue notice to official respondents.

5. Mr.R.Meenakshi Sundaram, learned State Additional Public Prosecutor accepts notice for official respondents (respondents 1 and 2) and learned Additional Public Prosecutor is instructed by Mr.B.Gandhi, Sub-Inspector of Police, K2-Keeranur Police Station.



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6. Learned Additional Public Prosecutor submitted that pursuant to the aforementioned complaint by HCP petitioner, investigation was kick started, absentee has been located and he is present in Court. This Bench had an interaction with the absentee and the following points emerged:

i) absentee is clearly a major as his date of birth is 29.09.2004;

ii) absentee says that he was neither kidnapped nor he is in illegal custody or unlawful detention of respondents 3 to 5. On the contrary, absentee says that he is staying with sixth respondent, who is none other than Chithappa (father's first cousin). To be noted, even according to HCP petitioner, the absentee is alleged to have been kidnapped and held in illegal custody only by respondents 3 to 5 and there is no allegation as regards respondent No.6;

iii) In any event absentee is clear that he has gone with his Chithappa (sixth respondent) on his own volition



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voluntarily and he is not under any coercion or compulsion;
and

iv) absentee says that for the present he does not want to go with the HCP petitioner and that he may take a call on the same later.

7. In the light of the narrative thus far, it is clear as a daylight that the case on hand is not one of illegal detention or unlawful custody. The absentee is free to go and stay with sixth respondent (Chithappa). It is open to absentee to take any decision of his choice in the days to come as he is clearly a major.

8. Captioned HCP is disposed of in the aforesaid manner capturing what unfurled in the Admission Board hearing today.

9. Before we write the concluding part of this order and before we drop the curtains on the captioned matter, we make it clear that all the rights and contentions of all the parties including private respondents, who are not



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before us are preserved for any connected or collateral proceedings which shall be proceeded on its own merits and in accordance with law *de hors* the closure of captioned HCP.

10. Captioned HCP is disposed of as closed. There shall be no order as to costs.

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

21.12.2023

Neutral Citation : Yes/No
Index : Yes/No
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To

- 1.The Superintendent of Police,
Dindigul District,
Dindigul.
- 2.The Inspector of Police,
Keeranur Police Station,
Dindigul District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madura.



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M.SUNDAR, J.

and

R.SAKTHIVEL, J.

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