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HCP.No.2136 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.02.2024

CORAM

**THE HON'BLE MR JUSTICE M.S.RAMESH
AND
THE HONOURABLE MR. JUSTICE SUNDER MOHAN**

H.C.P.No.2136 of 2023

D.Chandran

.. Petitioner

Vs.

1.The Director General of Police,
Mylapore,
Chennai-600 004.

2.The Director General of Police,
State of Himachal Pradesh,
Himachal Pradesh.

3.The Commissioner of Police,
Greater Chennai,
Vepery, Chennai-600 007.

4.State Rep. by
The Inspector of Police,
K-11, CMBT Police Station,
Chennai - 600 107.



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5.State Rep. by
The Inspector of Police,
Kinnaur Police Station,
Reckong Peo/Kalpa,
Himachal Pradesh.

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus, directing the respondents to produce the petitioner's son namely, C.Magesh, son of Chandran, aged about 30 years, before this Court and set him at liberty forthwith.

For Petitioner : Mr.S.L.Venkatesan

For Respondents : Mr.E.Raj Thilak
Additional Public Prosecutor
assisted by
Mr.C.Aravind

ORDER

(Order of the Court was made by **M.S.RAMESH,J.**)

The present Habeas Corpus Petition has been filed directing the respondents to produce the petitioner's son, C.Magesh, who is claimed to be 30 years old. According to the petitioner, his son had gone for a trip to Shimla on 02.05.2014, wherein he had met with a car accident on



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08.05.2014. The car in which the petitioner, his two colleagues and driver were travelling, had toppled from the Mountain and fell into the Sutlej river.

While the body of his colleagues and the driver were recovered, the petitioner's son is claimed to have been washed away in the river along with the car.

2. The accident came to be registered by the fifth respondent police in the State of Himachal Pradesh in F.I.R.No.31 of 2014, dated 08.05.2014 for the offences under Sections 279, 337 and 304 A IPC. In this background, the petitioner now claims to have seen a picture of a person who resembles his son in the social media. Claiming that his son was alive, he had filed a Writ Petition in W.P.No.268 of 2022 before the Hon'ble Supreme Court of India, seeking for issuance of a Writ of Mandamus, directing the State police of Himachal Pradesh to reopen the case in F.I.R.No.31 of 2014, and conduct a fresh investigation. This Writ Petition was filed predominantly on the ground that the petitioner's son is alive, based on the photographs seen of an identical person in the social media. The Hon'ble Supreme Court, by an



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order dated 09.01.2023, permitted the petitioner to withdraw the Writ Petition with liberty to approach the concerned jurisdictional High Court.

We would hasten to add that the jurisdictional High Court in this set of facts, would be the High Court of Himachal Pradesh.

3.In this backdrop of the case, the petitioner seems to have given another complaint before the fourth respondent herein on 17.05.2018, seeking to trace his son, which complaint was forwarded to the Cyber Crime Cell. Thereafter, when the petitioner's son could not be traced, he has preferred the present Habeas Corpus Petition.

4.The accident, owing to which the petitioner's son went missing, occurred in the State of Himachal Pradesh. The police complaint touching upon the accident was also registered and closed by the police authorities of the State of Himachal Pradesh. When the petitioner had sought for reopening of the investigation before the Hon'ble Supreme Court, liberty was granted to him to approach the jurisdictional High Court seeking such a



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prayer, which would be the High Court of Himachal Pradesh.

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5.Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondent.

6.We are of the view that since the petitioner's son went missing in the State of Himachal Pradesh and owing to the liberty granted by the Hon'ble Supreme Court to the petitioner to move the High Court of Himachal Pradesh, it would be appropriate that liberty could be granted to the petitioner to move a Habeas Corpus Petition before the State of Himachal Pradesh or any other proceedings before the concerned Court of law in the State of Himachal Pradesh. Such a decision has been arrived at by us, by taking into consideration that it would be convenient for the police authorities only in the State of Himachal Pradesh to conduct certain enquiry or investigation.



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7. Accordingly, liberty is granted to the petitioner to file a Habeas

Corpus petition or any other legal proceedings before the State of Himachal Pradesh.

8. In view of such liberty, no further orders are required to be passed in the present Habeas Corpus Petition. This Habeas Corpus Petition stands closed accordingly.

(M.S.R.,J.) (S.M.,J.)
02.02.2024

NCC : Yes / No
Index : Yes / No
Anu



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To

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3.The Commissioner of Police,
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4.The Inspector of Police,
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5.The Inspector of Police,
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6.The Additional Public Prosecutor,
Madras High Court



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M.S.RAMESH,J.
and
SUNDER MOHAN,J.

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