



H.C.P.(MD) No.697 of 2023

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

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**DATED : 28.06.2023**

**CORAM:**

**THE HONOURABLE MR.JUSTICE R.SURESH KUMAR**

**AND**

**THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN**

**H.C.P.(MD)No.697 of 2023**

Guru @ Paramaguru ... Petitioner / Husband of the detenue

Vs.

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

2.The Deputy Superintendent of Police,  
Musiri, Trichy District.

3.The Inspector of Police,  
Musiri Police Station, Trichy District.

4.The Inspector of Police,  
Thottiyam Police Station,  
Trichy District.

... Respondents

**PRAYER:** Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, directing the 1<sup>st</sup> respondent to produce the person or body of the petitioner's wife, namely, Saktheeswari, W/o.Guru @ Paramaguru, aged about 37 years from the illegal custody of the respondents 2 to 4 before this Court and set her at liberty.



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For Petitioner : Mr.C.Ezhilarasu

For Respondents : Mr.RMS.Sethuraman

Additional Public Prosecutor

**ORDER**

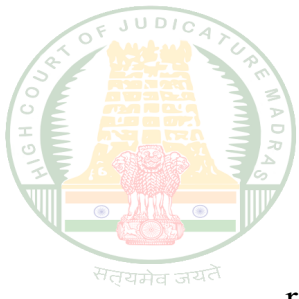
(Order of the Court was made by **R.SURESH KUMAR, J.**)

The petitioner, seeking production of his wife, namely, Saktheeswari, aged about 37 years, has filed this Habeas Corpus Petition.

2.When this Habeas Corpus Petition came up for hearing on 15.06.2023, the respondent Police had produced the detinue before this Court, who had made some allegations against the respondent Police ie., the respondents 2 to 4 that in the name of enquiring the detinue in connection with the case, where the petitioner ie., the husband of the detinue has been arrayed as an accused, the respondents 2 to 4 had tortured her and she literally cried before this Court, saying that her and her children's life are in danger at the hands of the respondents 2 to 4.

3.Having recorded the said allegations made against the respondents 2 to 4 by the detinue, we passed the following order on 15.06.2023:-

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“Today, when the matter is taken up for hearing, the respondent Police has produced the detenue, namely, Saktheeswawri, W/o.Guru @ Paramaguri / petitioner herein.

*2.The detenue has stated before this Court that there has been no strained relationship between the detenue and her husband and because of the torture given by the Police, she had to take shelter at the parental home at Thottiyam with the help of her brother, where she claimed to have been residing with her children.*

*3.Apart from this, it is the allegation that has been made by the detenue that the respondent Police ie., the respondents 2 to 4 in the name of enquiring the detenue in connection with the case, where the petitioner, ie., the husband of the detenue has been arrayed as accused, had tortured her and she literally cried before this Court, saying that her and her children's life are in danger at the hands of the respondents 2 to 4. She has further alleged that they had indiscriminately beaten up the detenue and sometime her children and she is now living in utter fear psychosis.*

*4.The said allegation made by the detenue since is serious in nature that has also been made against the concerned police officer and police men attached with the respondents 2 to 4, we feel that in order to unearth the truth, a higher Officer can be requested to conduct an enquiry and file a report before this Court.*



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*5.In this context, we feel that we can request Mr.Asra Garg, Inspector General of Police, Madurai South Zone, Madurai to enquire this matter with regard to the allegation made by the detenue against the Police people attached with the respondents 2 to 4 and file a report about such shabby treatment allegedly met by the detenue and her children or family members at the hands of the respondents 2 to 4 and accordingly, such a report shall be filed before this Court during the next hearing date.*

*6.For the aforestated purpose, post this matter on 23.06.2023 immediately after admission. The respondent Police shall produce the detenue on the said date also before this Court.*

*7.A copy of this order shall be communicated to Mr.Asra Garg, Inspector General of Police, Madurai South Zone, Madurai for taking necessary action as indicated in the order.”*

4.Pursuant to which, when the case came up for hearing again on 23.06.2023, it was submitted by the learned Additional Public Prosecutor for the respondents that the Inspector General of Police, South Zone, Madurai, has already completed the enquiry on 22.06.2023, therefore, he



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wanted a week time to file a report. Therefore, on 23.06.2023, we passed the following order:-

*“Pursuant to our order dated 15.06.2023, today, when this Habeas Corpus Petition is taken up for hearing, the learned Additional Public Prosecutor for the respondents would submit that he has received instructions from Mr.Asra Garg, Inspector General of Police, Madurai South Zone, Madurai that he has completed enquiry only by 22.06.2023 as directed by this Court and he would file a report before this Court on 28.06.2023 without fail.*

*2.Recording the said submission made on behalf of the enquiry officer ie., Inspector General of Police, post this matter for filing report by him on 28.06.2023. Let the detenu be produced on 28.06.2023.”*

5.Accordingly, when the case has again come up for hearing today, the learned Additional Public Prosecutor for the respondents has filed a report of the Inspector General of Police, South Zone, Madurai, in a sealed cover, where two copies of the report had been filed before this Court along with a pen drive, where according to the Inspector General of Police, South Zone, Madurai, the statements given by the persons on the detenu side and the officials and the police men of the respondent Police are recorded, which are very much available.

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6. In the said detailed report running of nearly 9 pages filed by the Inspector General of Police, South Zone, Madurai, he has narrated as to how the enquiry was conducted for the purpose of which a special team consisting of two police officials, namely, T.Gandhi, ADSP, Crime against Women and Children, Ramanathapuram District and M.Sabarinathan, DSP, Srivilliputhur Sub Division, Virudhunagar District, was formed and with the help of the said special team, enquiry was conducted in detail.

7. The report has further stated that based on the examination of the witnesses, perusal of the records and analysis of circumstantial evidences, the following has been found out:-

*“11. Based on the examination of the witnesses, perusal of records and analysis of circumstantial evidence, it has been found that:*

*1) Tmt. P. Saktheeswari was examined as a suspect on 25.05.2023 by the police officials in Musiri Traffic Police Station and was let off on the same day. This has been proved by the entries made in the Case Diary of Thottiyam PS Cr. No. 140 of 2023 dated 25.05.2023 and corroborative statements of Tmt. P. Saktheeswari, Tr. P. Madhanprakash and Master P. Bujith on the*



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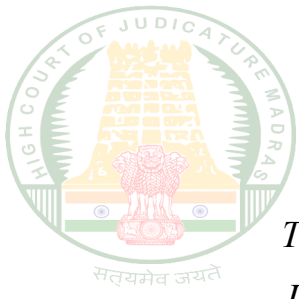
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victim side. (It is pertinent to mention that there is no CCTV available in Musiri Traffic Police Station as informed by Superintendent of Police, Tiruchirapalli District vide letter in C. No. 270/Camp/SP/TRI/2023 dated 26.06.2023. So, the same could not be further corroborated through CCTV footage)

Further, she was also directed to appear for examination on 26.05.2023 at Thottiyam Police Station but she did not appear for examination on 26.05.2023. This was corroborated by the statements of herself, Tr. P. Madhanprakash and Master P. Bujith, Tr. S Sethupathi, Tr. S. Surya, Tmt. M. Lalitha (aunt of Tmt. P. Saktheeswari) on the victim side and also by Deputy Superintendent of Police, Musiri Sub Division, Inspector of Police Thottiyam Circle on the police side.

It is further submitted that issuing summons to a woman to appear in a Police Station for examination is in violation of section 160 of Criminal Procedure Code.

2) The three persons namely Tmt. P. Saktheeswari, Tr. P. Madhanprakash and Master P. Bujith were located by the police officials on 30.05.2023 in the residence of Tmt. S. Malarkodi (sister-in-law of Tmt. P. Saktheeswari), w/o Sakthivel, Kennedy Nagar Cross Street, backside of KPN Petrol Bunk, Suramangalam, Salem. This was corroborated by the statements of Tmt. P. Saktheeswari, Tr. P. Madhanprakash and Master P. Bujith, Tmt. S. Malarkodi on the victim side and also by Deputy Superintendent of Police Musiri Sub Division, Inspector of Police



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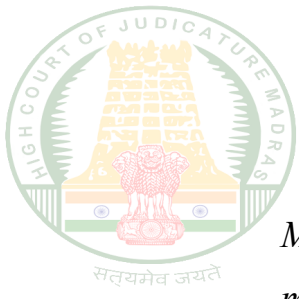
*Thottiyam Circle, WGrIPC 531 Tmt. K. Revathi, WPC 691 Tmt. J. Vaijyanthi.*

*The three persons namely Tmt. P. Saktheeswari, Tr. P. Madhanprakash and Master P. Bujith were brought to Musiri Traffic Police Station on 30.05.2023 and examined there along with Tr. S. Sethupathi, Tr. S. Surya, Tr. R. Mukesh and Tmt. M. Lalitha. This was corroborated by the entries made in the Case Diary of Thottiyam PS Cr. No. 140 of 2023 and corroborative statements of Tmt. P. Saktheeswari, Tr. P. Madhanprakash and Master P. Bujith, Tr. S. Sethupathi, Tr. S. Surya, Tmt. M. Lalitha on the victim side and also by Deputy Superintendent of Police Musiri Sub Division, Inspector of Police Thottiyam Circle, Inspector of Police Musiri Police Station and Inspector of Police, All Women Police Station Musiri.*

*It is pertinent to mention here that though the entries in Case Diary dated 30.05.2023 claims that three persons were let off on 30.05.2023, but enquiry actually reveals that three persons along with Tr. S. Sethupathi were kept at Musiri Traffic Police Station on the night of 30.05.2023 till they were shifted to Kattuputhur Police Quarters, Trichy District on 31.05.2023.*

*3) Then the four persons namely Tmt. P. Saktheeswari, Tr. P. Madhanprakash, Master P. Bujith and Tr. S. Sethupathi were taken to a police quarters in Kattuputhur, Trichy District on 31.05.2023. They were detained there till 03.06.2023. This was corroborated by the statements of Tmt. P. Saktheeswari, Tr. P.*





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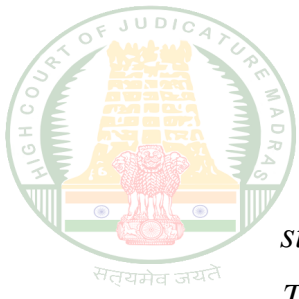


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*Madhanprakash and Master P. Bujith and Call Data Records of mobile number 6374367158 used by Tmt. P. Saktheeswari which shows its location in Kattuputhur, Trichy District from 01.06.2023 09:07:38 hours to 03.06.2023 19:47:26 hours, Call Data Records of phone number 8122067546 used by Tr. S. Sethupathi which also shows the location on 01.06.2023 at 14:56:11 hours at Kattuputhur, Trichy District. The numbers 9360688730 and 6382355503 used by Tr. P. Madhanprakash and Master. P. Bujith respectively were showing no entries during this period thus corroborating the fact that the phones were not used during that period being in police custody.*

*4) The four persons namely Tmt. P. Saktheeswari, Tr. P. Madhanprakash, Master P. Bujith and Tr. S. Sethupathi were then brought to Thottiyam Police Station on 03.06.2023.*

*Subsequently, a case was registered in Thottiyam Police Station Crime Number 154 of 2023 u/s 294(b) IPC on the suo-motu complaint of Tr. P. Kumaresan, Sub Inspector of Police, Thottiyam Police Station on 03.06.2023 at 2100 hrs (time of occurrence is 2000 hrs) against Tmt. P. Saktheeswari and Tr. S. Sethupathi on the ground that they were abusing using bad words when the Sub Inspector of Police, Thottiyam Police Station was in rounds with Tr. V. Prithiviraj, PC 871 and Tr. D. Annamalai, PC 739. This was recorded as per the entries made in the corresponding case diary, General Diary, Prisoner Search Register, Sentry Relief Book of Thottiyam Police Station*



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*statements of Tr. P. Kumaresan, Sub Inspector of Police, Thottiyam and Police Station.*

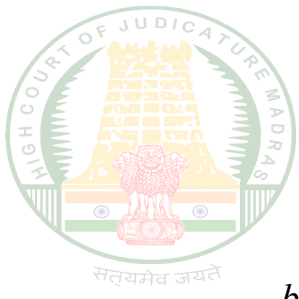
*This was however, contradicted by the statements given by PC 871 Tr. V. Prithiviraj, PC 739 Tr. D. Annamalai, Tmt. S. Angammal and Tmt. R. Suganthi. Both, PC 871 Tr. V. Prithiviraj, PC 739 Tr. D Annamalai, cited as witnesses have categorically stated vide statements dated 27.06.2023 that they are not aware of any such purported occurrence.*

*It is pertinent to mention that the place of the purported occurrence was near the house of Tmt. P. Saktheeswari in Valluvar Street in Thottiyam. During the enquiry, Tmt. S. Angammal and Tmt. R. Suganthi who are living near the place of occurrence stated that no such incident took place on 03.06.2023 at 2000 hours. Hence, it is revealed prima facie that a case was unwarrantedly registered against Tmt. P. Saktheeswari and Tr. S. Sethupathi to screen the detention of four persons.*

*5) Another allegation raised by Tmt. P. Saktheeswari that they were beaten by the police officials using lathi was also enquired. None of the other witnesses examined have mentioned the same. Further, no medical treatment was availed by Tmt. P. Saktheeswari, Tr. P. Madhanprakash and Master P. Bujith.”*

8.Ultimately, the following conclusion has been given by the Inspector General of Police, South Zone, Madurai in his report dated 28.06.2023:-

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*“12. To sum up, the below mentioned findings are brought to the kind notice of Divisional Bench of Hon'ble High Court.*

*1) Summons were issued to a woman to appear in Police Station for examination in violation of section 160 of Criminal Procedure Code.*

*2) Detention of three persons including a woman and a child aged 16 years for more than 24 hours.*

*3) Unwarranted registration of a criminal case against Tmt. P. Saktheeswari and Tr. S. Sethupathi in Thottiyam PS Cr.No.154 of 2023 u/s 294(b) IPC to screen the detention.*

*This is submitted for kind perusal and orders as this Hon'ble High Court may deem fit and proper in the circumstances of the case and thus render justice.”*

9.On perusal of the said report, copy of which has also been served on the learned Additional Public Prosecutor for the respondents, he would submit that even still there has been contradictory statement that has been given by the detenu. Therefore, that can also be taken note of by this Court.



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10.Be that as it may, the enquiry report submitted by the Inspector General of Police, South Zone, Madurai, is exhaustive with supportive and corroborative elements with circumstances and other statements that have been recorded from the persons or witnesses or police officials or police men and produced before this Court in electronic form. Therefore, *prima facie* the Court has to accept the report, as there has been no reason to raise any doubt over the said report submitted by the Inspector General of Police, South Zone, Madurai.

11.On three grounds, there has been a complete violation on the part of the respondent Police in dealing with the matter. The first one is that summon issued to the women person is in violation of proviso to Section 160 Cr.P.C.. The second is that the three persons were detained, including the women and a child aged about 16 years more than 24 hours without the authority of law and the third one is an unwarranted registration of criminal case against the detinue and another person one Sethuraman in Crime No.154 of 2023 under Section 294 IPC to screen the detention.

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12.Since these three violations are serious in nature, which have been found out by the Inspector General of Police, South Zone, Madurai in his enquiry and it has been stated in the report, we, having accepted the said report, feel that further follow up action by way of proper enquiry on these violations shall go on.

13.Therefore, we are inclined to direct the Inspector General of Police, Central Zone, Trichy to take further action on the three violations pointed out by the Inspector General of Police, South Zone, Madurai in his report dated 28.06.2023. In this regard, an independent team shall be formed to further enquire the matter on the basis of the evidences collected by the Inspector General of Police, South Zone, Madurai and accordingly, necessary disciplinary action shall be initiated against the erring police officials as well as the police men, who involved in such violation and such disciplinary proceedings shall be permitted to reach its logical conclusion on merits.

14.Such a needful action of conducting enquiry as well as disciplinary action as indicated above shall be initiated and completed at the

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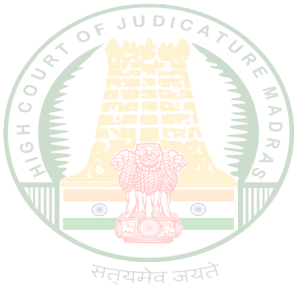
direction of the Inspector General of Police, Central Zone, Trichy, within a period of three months from the date of receipt of a copy of this order.

15.Insofar as the illegal detention of the detinue women and minor ie., under the age of 18 is concerned, it is open to the detinue to seek for remedial measure, including the compensation before the concerned forum in the manner known to law.

16.Since the detinue has been set at free and the learned Additional Public Prosecutor for the respondents has submitted that there is no arrest in any case and she is not in the custody and she is free now, the detinue can either join with the family or can lead her comfortable life. Therefore, this Habeas Corpus Petition can be closed to that extent, accordingly, it is closed.

17.However, insofar as the criminal case that has been registered against the husband of the detinue is concerned, it is open to the respondent Police to proceed with the investigation further in accordance with law and let the case be taken into its logical conclusion based on the evidences to be collected by the respondent Police.

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18.The Inspector General of Police, Central Zone, Trichy shall file a compliance report with regard to the aforesaid directions after three months.

19.For the said purpose, post this matter on **03.10.2023**. It is made clear that the evidence that has been produced before this Court by way of electronic form (pen drive) along with the report filed by the Inspector General of Police, South Zone, Madurai, shall be preserved by the Additional Registrar General of this Bench for future usage.

**(R.S.K., J.) & (K.K.R.K, J.)**

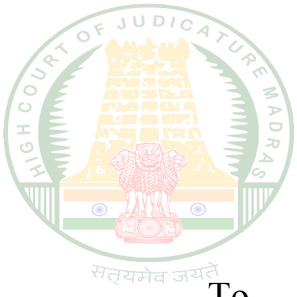
**28.06.2023**

NCC : Yes / No  
Index : Yes / No  
Internet : Yes / No

*MYR*

***Note: Issue Order copy on 28.06.2023.***

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To

1. The Inspector General of Police,  
Central Zone, Trichy.
  
2. The Superintendent of Police,  
Trichy District, Trichy.
  
3. The Deputy Superintendent of Police,  
Musiri, Trichy District.
  
4. The Inspector of Police,  
Musiri Police Station, Trichy District.
  
5. The Inspector of Police,  
Thottiyam Police Station,  
Trichy District.
  
6. The Additional Public Prosecutor,  
Madurai Bench of Madras High Court, Madurai.

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**R.SURESH KUMAR, J.**

**AND**

**K.K.RAMAKRISHNAN, J.**

*MYR*

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**28.06.2023**