



H.C.P.(MD) Nos.793 and 658 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 29.08.2025

CORAM:

**THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA
and
THE HONOURABLE MS.JUSTICE R.POORNIMA**

H.C.P.(MD) Nos.793 and 658 of 2025

H.C.P.(MD) No.793 of 2025

Raja Lakshmi

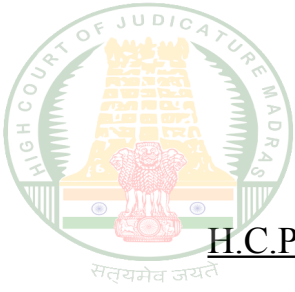
Petitioner

Vs.

1. State of Tamil Nadu rep by
its Commissioner of Police,
Madurai City, Madurai District.
2. The Assistant Commissioner of Police,
Thallakulam, Madurai City,
Madurai District.
3. The Inspector of Police,
Thallakulam Police Station,
Madurai District.
(Crime No.848)

Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, directing respondent No.3 to produce the body or person of the detenu by name Selvaraj S/o.Vellaisamy, aged about 45 years and produce him before this court and set him at liberty.



H.C.P.(MD) Nos.793 and 658 of 2025

H.C.P.(MD) No.658 of 2025

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Petitioner

Vs.

1. State of Tamil Nadu rep by
Superintendent of Police,
Thanjavur District,
Thanjavur.

2. The Inspector of Police,
Pattukkottai Town Police Station,
Pattukkottai, Thanjavur District.

Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, directing the respondents secure the body or person of the detinue, the petitioner's daughter by name S.Rabiyamma D/o. Sheik Ismail, aged about 18 years and set her at liberty.

For Petitioner
(In both petitions) : Mr.K.Dinesh

For Respondents : Mr.Hasan Mohammed Jinnah,
(In both petitions) State Public Prosecutor
Mr.A.Thiruvadi Kumar,
Additional Public Prosecutor
and
Mr.B.Nambiselvan,
Additional Public Prosecutor



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COMMON ORDER

[Order of the Court was made by A.D.JAGADISH CHANDIRA, J.]

These Habeas Corpus Petitions are filed to direct the respondents therein to produce the body or person of the detenus concerned before this Court. Finding some maintainability issue, both the petitions were taken up together for hearing.

2. Heard the learned counsel appearing for the petitioners and the learned Additional Public Prosecutor appearing for the respondents.

3. While indulgence of this court is craved by the learned counsel appearing for the petitioners for tracing the missing persons concerned on the ground that no effective steps had been taken by the respondent police, by producing the status reports, it is contended by the learned Additional Public Prosecutor appearing for the respondents that enquiry by the respondent police revealed that the persons concerned in the Habeas Corpus Petitions had gone out of their residence on their own volition and they do not appear to be in any illegal confinement and detention, however, the respondent police are taking effective steps to trace them and thereby,



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invocation of the extraordinary jurisdiction of this court is not warranted in the present cases.

4. Factual exploration of the cases reveals that the first petition having been filed for production of a 45 years old male, by profession, an auto driver, while the second petition had been filed for production of a 18 years old girl, a college student. On perusal of the supporting affidavits filed in both the petitions, it is seen that both the detenus were alleged to have been missing and there is no strong contention of illegal detention.

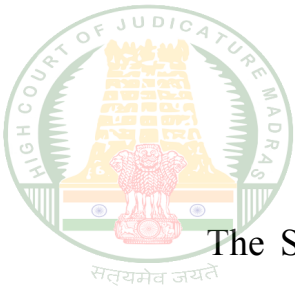
5. The worst scenario is that in the affidavit in H.C.P.(MD) No.793 of 2025, while the petitioner, wife of the detenu, contends that her husband is an alcoholic and used to pick up quarrel with her and their younger daughter and he left the house for his mother's house on 3.5.2024 informing their younger daughter that he would never come back, the affidavit has been drafted with usual contentions in para 1 and 5 as if the petitioner apprehends illegal detention of her husband. Such an allegation is also not found in the affidavit filed in H.C.P.(MD) No.658 of 2025, which has been filed in respect of an 18 year old college girl, who is alleged to have been missing.



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WEB COPY 6. In the first case, the petitioner-wife of the detenu had projected about a drunk and drive case having been filed by the Thallakulam Police against her husband so as to raise a suspicion that her husband could be missing with regard to such a case. In this regard, it has been clarified by the learned Additional Public Prosecutor that the petitioner intends to mix up the issues as even as per the case of the petitioner, her husband appears to have been missing from 3.5.2024, but, she contends that she had received a phone call from Thallakulam Police on 26.7.2024 about filing of a drunk and drive case against her husband and such being the position, she had chosen to lodge her complaint with the respondent police only on 6.8.2024.

7. Coming to the case of the detenu in H.C.P.(MD) No.658 of 2025, while the affidavit of the petitioner-mother of the detenu speaks only about missing of her girl without whispering any suspicion about any illegal detention, the Status Report filed by the Deputy Superintendent of Police, Pattukottai Sub Division, Thanjavur reveals that the detenu, who is reported to have been missing from 31.5.2025, had eloped with one Murugesan on a love affair developed with him when she was pursuing her school education, where the said Murugesan was working as Tamil Teacher.



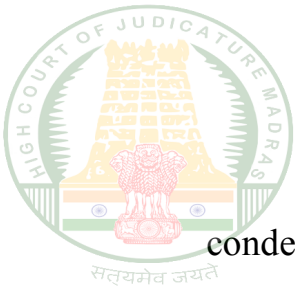
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The Status Report further reveals that the said Murugesan had converted himself into Islam on 9.9.2024 in Ilayangudi Masjid with the assistance of the Correspondent of the said School viz., Mr.Mohammed Abdul Khader by changing his name as Mohammed and latter, during March 2025, the said Murugesan @ Mohammed had quit his job from the said school.

8. The above Status Report also reveals that on verification of the CDR of the mobile phones owned by the detainee and the abovesaid Murugesan @ Mohammed, both were switched off and a new number was obtained by the said Murugesan @ Mohammed for contacting the detainee exclusively and that number was also, later, kept switched off. The Report further reveals that the police had been equipped for tracing both Murugesan @ Mohammed and the detainee by using all their modalities by enquiring their friends and relatives, however, till the date of such Report, they could not trace them and they would pursue all their initiatives effectively to trace them.

9. The factual background of the above cases being so, it is relevant to note that the Constitutional Courts across the country, had already



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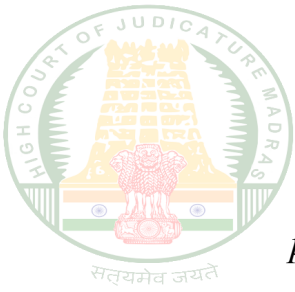
condemned the recurrent abuse of process by invoking the extraordinary jurisdiction of this court with regard to "man/woman missing cases" without establishing a prima facie case of illegal detention, as Habeas Corpus Petition is a speedy remedy to be invoked exclusively in the cases of illegal detention.

10. On the above aspect, a Division Bench of the Madhya Pradesh High Court in ***Simmi Bai vs. Shrimaan Police Mahanirishak Mahodaya and others*** (2025 SCC OnLine MP 893), has held as under:-

"11. It is apparent that the corpus is not in any wrongful confinement and she has gone on her own along with minor children. The present petition is preferred as habeas corpus and this petition is maintainable only in case, the corpus is wrongfully confined by any authority or private persons. Writ of Habeas Corpus is an effective means of immediate release from an unlawful detention. Physical confinement is not necessary to constitute detention, however control or custody are sufficient for issuance of writ of Habeas Corpus. Petitioner must show a prima facie case of unlawful detention of the corpus.

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13. A writ of habeas corpus is not maintainable in respect of



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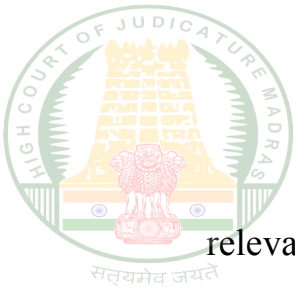
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person who is simply missing and not in unlawful detention. Unlawful detention is the sine qua non for issuance of writ of habeas corpus.

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16. Cases of missing persons cannot be brought under the provision of the Habeas Corpus petition. Cases of missing persons are to be registered under the regular provisions of the [Penal Code, 1860](#) and the Police officials concerned are bound to investigate the same in the manner prescribed under the [Code of Criminal Procedure](#). Such cases are to be dealt as regular cases by the competent Court of law and the extraordinary jurisdiction of the Constitutional Courts cannot be invoked for the purpose of dealing with such cases of missing persons. Thus, the constitutional Courts across the country predominantly held in catena of judgments that establishing a ground of “illegal detention” and a strong suspicion about any such “illegal detention” is a condition precedent for moving a habeas corpus petition and the constitutional Courts shall not entertain a habeas corpus petition, where there is no allegation of “illegal detention” or suspicion about any such “illegal detention”.

11. Further, the observation made by this court in its order dated 7.5.2018 in H.C.P.No.2191 of 2017 (***Kalaiarasi vs. State***) would also be



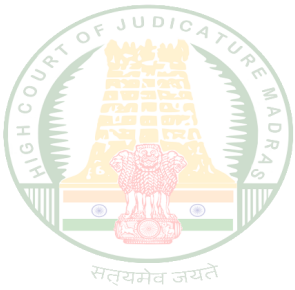
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relevant to be extracted hereunder:-

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"6.This Court is frequently witnessing that Man/Women Missing cases are converted as Habeas Corpus petitions. Two aspects are to be considered, fundamental right of a citizen for free movement is also a fundamental right, enshrined under the Constitution of India. Personal liberty is also a fundamental right enshrined in Part III of the Constitution of India. It is to be co-related that personal liberty must have a cogent and harmonious understanding in respect of the freedom to move anywhere across the country. A person, who voluntarily moving from home or anywhere to a place of his own choice, then the family members or any other person concerned with such a person can file a case for Man missing, if the Police is able to investigate the matter and find that the person moved at his own volition and is not illegally detained, then the question of entertaining the Habeas Corpus petition would not arise at all. Therefore, it is a condition precedent that a person filing a Habeas Corpus petition should establish that there is a prima facie case of “illegal detention” or at least a suspicion in respect of such illegal detention. In the absence of any of these ingredients, no Habeas Corpus petition can be entertained under Article 226 of the Constitution of India.

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13.The constitutional Courts across the country predominantly held in catena of judgments that establishing a ground of illegal detention and a strong suspicion about any such illegal detention is a condition precedent for moving a Habeas Corpus petition and the Constitutional Courts shall be restrained in entertaining such Habeas Corpus petition, where there is no allegation of illegal detention or suspicion about any such illegal detention. Man/Women missing cases cannot be brought under the provision of the Habeas Corpus petition. Man/Women missing cases are to be registered under the regular provisions of the Indian Penal Code and the Police officials concerned are bound to investigate the same in the manner prescribed under the Code of Criminal Procedure. Such cases are to be dealt as regular cases by the competent Court of Law and the extraordinary jurisdiction of the Constitutional Courts cannot be invoked for the purpose of dealing with such Man/Women Missing cases."

12. Therefore, it is clear that for simple man/woman missing cases, especially, when the persons concerned, obviously, went on their own volition, there is an alternative and efficacious remedy available and the



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extraordinary jurisdiction of this court need not be invoked. So far as the present cases are concerned, in the first case viz., H.C.P.(MD) No.793 of 2025, the petitioner herself contends in her affidavit that the missing person viz., her husband is an alcoholic and used to pick up quarrel with her and her daughter and on the relevant day, he had left the home informing their daughter that he would never come back. In the other case, there is not even a single contention of any suspicion that the missing person could be under illegal detention and in fact, the status report filed by the respondent police reveals that the missing girl was in love affair with her teacher when she was doing her school education and she had eloped with him. Therefore, it is clear that the missing persons in both the petitions went out of their home on their own volition and thereby the Habeas Corpus Petitions are not at all maintainable.

13. However, the sharp rise in number of Habeas Corpus Petitions being filed in respect of man missing cases bothered this court and thereby pending disposal of these Habeas Corpus Petitions, this court had directed the learned Additional Public Prosecutor to appraise this court as to the modalities adopted by the respondents for tracing the missing persons.



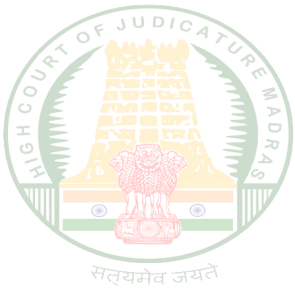
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WEB COPY 14. Producing the guidelines issued by the Director General of Police in the matter of man/woman missing cases, the learned Additional Public Prosecutor, would submit that effective steps are being taken by the Police Department for early tracing of missing persons by following the guidelines issued in this regard and thereby filing of Habeas Corpus Petitions in man missing cases is a clear abuse of process, which need not be entertained.

15. While this court will not support such abuse of process, it is painful to note that in many a case, the Police is said to have not dealt with the “man-missing” cases properly and they used to file a closure report contending “undetected” before the Court concerned.

16. In one of such cases, viz., in ***K.Sukumari vs. The Superintendent of Police*** (Crl.O.P.(MD) No.19255 of 2016 dated 18.9.2018), this court has observed as under:-

"4.This Court had an occasion to deal with a case where the Police closed the man-missing case and filed a report



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as “undetected”. Taking note of this procedure, this Court by an order dated 12.09.2014 made in HCP No.1454 of 2014, after considering the matter in detail and after referring to the relevant Police Standing Orders gave certain directions and the same is extracted here under:

“ 6. This issue had cropped up earlier also before this Court in HCP No.658/2003 and this Court had passed an order on 05.08.2003, directing the police to put in place a procedure for tracking down missing persons,, pursuant to which the Office of the Director General of Police, Tamil Nadu, issued the following Circular Memorandum:

"C.No.016781/Cr.3(1)2005 Office of the Director General of Police Tamil Nadu, Chennai - 600 004.
Dated: 31.1.2005.

CIRCULAR MEMORANDUM

Sub: Missing Persons - Certain instructions Issued

Ref: 1) Chief Office Memo in Rc.No.2110/128992/
Cr.II(I)/2003, Dt 27.06.2003.

2) Order of the High Court, Madras, HCP No.658 of
2003 Dt 05.08.2003.

3) Chief Office Memo in C.No.84/CIG/MOB/2003
Dated 13.08.2003.

4) Chief Office Memo in R.C.No. 84/MOB/SCRB/2003
dated 19.01.2005.



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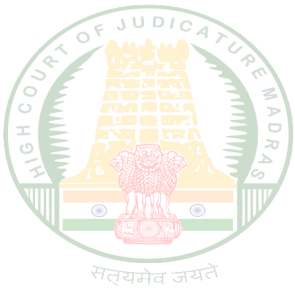
In several cases, Hon'ble High Court of Madras has observed that the investigations relating to Missing Persons are perfunctory. It is therefore necessary to streamline the investigation relating to Missing Persons.

2)It is seen that, during investigations, cases of missing persons, kidnapped, deserters, wanted criminals, escaped criminals, unidentified dead bodies etc., the computerised "Talash" software is not being availed of by the field officers. In order to streamline the process of monitoring and supervision, the following instructions are hereby issued:

(i) Police Computer Wing (SCRB) will circulate the seven forms (i.e. for Missing, Kidnapped, Deserter, Wanted, Escaped, Unidentified Person, Unidentified Dead body) to District Superintendents of Police and Commission of Police.

(ii) Sufficient forms will be supplied by COPs/SPs to PS.

(iii) (Missing, Immediately after registering the case, Kidnapped, Deserter, Wanted, Escaped, Unidentified Person, Unidentified Dead Body), wireless messages



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should be sent to DSPs, Police Computer Wing, DCRB and Modus Operandi Bureau by the Investigating Officer.

(iv) The SHOs will prepare "Talash" Forms for all cases reported in 2005 and send them to DSPs, Police Computer Wing, DCRB and Modus Operandi Bureau, if not already sent

(v) The IOs will collect Photos of Missing/Unidentified Dead bodies and send it to DSPs Police Computer Wing, DCRB and Modus Operandi Bureau.

(vi) Police Computer Wing will develop a software to match all the seven categories on different parameters, Photographs should also be included.

The Dy. Superintendent of Police, Police Computer Wing will submit a project report on this within two months.

(vii) Manual verification should be done in Police Computer Wing forming a Special Team

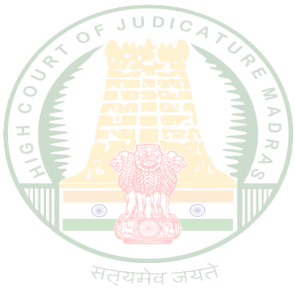
consisting of one Inspector of Police and three Police Constables. (viii) The circular vide reference third

cited is being sent again to all District Superintendents of Police and Commissioners of

Police to reiterate the procedure that should be followed strictly.

(ix) Investigating Officer should be Inspector of

Police. (x) Instructions given in the reference third



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cited above should be followed strictly for reviewing the progress of the cases.

(xi) Special Cell consisting of one SI, two HCs and two PCs should be formed in the Districts to collect relevant details in all the seven categories.

(xii) Monthly meeting by SP should be conducted with IOs and DSPs to monitor the progress of the case.

(xiii) In all the cases of Missing, Kidnapped, Deserter, Wanted, Escaped, Unidentified Person, Unidentified Dead body and, when traced, message should be flashed to DSPs, Police Computer Wing, DCRB and Modus Operandi Bureau.

3) The standardised proforma has been designed to be used in all the cases, is enclosed.

4) The consolidated database should be maintained at Police Computer Wing and a search should be done immediately after receiving messages from Districts.

5) The system should be followed with immediate effect. A compliance report should be sent to Addl. Director General of Police, Law and Order on or before 05.02.2005.

6) The receipt of this memorandum should be acknowledged.

*Sd/- Director General of Police Tamil Nadu,
Chennai - 4."*

7. In Tamil Nadu, there are at present 40 Police



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Districts including 7 Commissionerates, 2 Railway Districts and 31 Districts. Each Police District has a District Crime Record Bureau [for brevity 'DCRB'] functioning under the control of a separate Deputy Superintendent of Police in the Office of the Superintendent of Police of the District. The Apex body in the State is the State Crime Record Bureau [for brevity 'SCRB'], which is under the control of an Officer of the rank of Additional Director General of Police. Whenever a FIR is registered under the caption "man missing", the photograph of the missing person and other details are required to be sent by the Station House Officer of the concerned Police Station to the DCRB, which in turn would send the details to the SCRB. The SCRB will host the entire details in the Tamil Nadu Police Website, which can be accessed by any member of the public by logging into www.tnpolice.gov.in and can view the details of the missing person. Similarly, when an unidentified body is found, the police will register a FIR u/s 174 Cr.P.C., take photographs, conduct inquest and will despatch the body for post mortem to the Government Hospital. The concerned Station House Officer will pass on these details to the DCRB, which in turn will transmit it to the SCRB and these details along with the photograph of the unidentified body will be hosted



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in the Tamil Nadu police website. In the SCRB, there is a special team of Officers who analyse the cases relating to missing persons and try to match it up with the cases relating to unidentified bodies. This Team has done commendable work and has been able to solve number of cases of man missing. In fact, even in this case, the matching was first done by the SCRB and Cuddalore Police was intimated by them. They have also solved a few murder cases by matching the profile of missing persons with that of unidentified bodies.

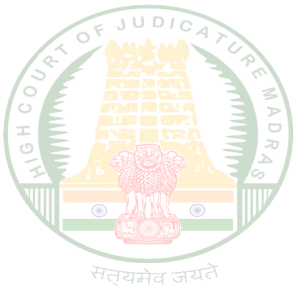
15. We have laboured to extract all the extant rules and instructions on the subject, in order to facilitate the legal community to properly guide the kith and kin of missing persons when they approach them for help.

16. To sum up:

a) The Police shall immediately register an FIR whenever a case of 'Man missing' is reported and follow the Circular dated 31.01.2005 issued by the Director General of Police.

b)”

5.This Court took pains to give elaborate directions to the Police to follow the procedure as stipulated in the Circular dated 31.01.2005 issued by the Director General of Police. However, the police is completely



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unaware of this procedure and they continue to commit the very same mistake in all “man-missing” cases.

6.The learned Counsel for the petitioner also brought to the notice of this Court a Full Bench Judgment of this Court in Chinnathambi @ Subramani Vs State, reported in 2017 (1) MWN (Cr) 471 (FB) wherein this Court was dealing with the effect on the closure report filed as “undetected”. The relevant portion of the judgment is extracted hereunder.

“32. Thirdly, if the Investigating Officer, despite the earnest efforts taken, is unable to detect the crime, he will submit a report to the Magistrate stating that the crime is "undetectable". In such a case, it cannot be construed that the investigation has been completed. If once the investigation is completed, then only a report could be filed under Section 173(2) Cr.P.C. A report of this kind where the Police Officer states that the crime is undetectable, does not terminate the investigation and thus, the investigation is construed to be in progress. It is like an interim report not falling within the scope of Section 173(2) Cr.P.C. On receipt of such a report, the learned Magistrate does not pass a judicial order but, instead, he simply receives and records the same. There is absolutely no element of any adjudication. This order of the learned Magistrate



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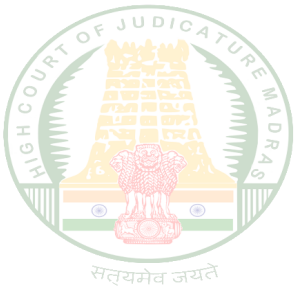
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is undoubtedly not a judicial order.”

7.A reading of the above judgment would show that the Police can never file a final report / undetected closure report on the ground of “undetectable”. Even if such a report is file before the Court, that does not automatically terminate the investigation and it is construed that the investigation is in progress. “Undetectable” is only a stage in investigation and not a final report. In the instant case, a final report has been filed on the ground that the case is closed as “undetected”. This procedure is again illegal and in many cases this Court finds that the Police files such a closure report before the concerned Court.

8. In the present case, the husband of the petitioner remains undetected / untraceable. Therefore, the respondent Police has to necessarily follow the circular dated 31.01.2005 issued by the Director General of Police and deal with the case in accordance with the said circular. Similarly, the report filed before the Court below cannot be taken as a final report, since it has been filed as “undetected”. Therefore, the natural corollary is that the investigation is still pending and the respondent Police has to proceed further in the matter in accordance with the directions given hereinabove and accordingly, the criminal original petition is disposed of.

9.This Court is witnessing on a regular basis that



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the Police are not dealing the “man-missing” cases in accordance with the Circular of the Director General of Police dated 31.01.2005 and are not following the directions given by the Division Bench of this Court in HCP No.1454 of 2014 dated 12.09.2014. That apart, this Court is also witnessing on a regular basis that the Police file a closure report on the ground “undetected” before the concerned Court. This is also a practice which is in violation of the provisions of Section 173 (2) of CrPC and also in violation of the judgment of the Full Bench in Chinnathambi @ Subramani Vs State, reported in 2017 (1) MWN (Cr) 471 (FB).

10.This Court cannot keep on condoning the mistakes every time and the Police concerned must understand that they are duty bound to comply with the procedure that have been directed by this Court.

11. In the facts and circumstances of the case, there shall be a direction to the Director General of Police, Chennai and the Inspector General of Police of various Zones to immediately sensitize and educate the Police in dealing with the “man-missing” cases. The attention of the Police must be brought to the Circular dated 31.01.2005 issued by the Director General of Police and also the judgment of this Court in HCP No.1454 of 2014, dated 12.09.2014. Similarly, the Police must be specifically instructed not to file a closure report on the



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ground of “undetected”. Such a report can at the best only be construed as a stage in investigation and the Police must continue with the investigation till a final report is filed under Section 173(2) of CrPC.”

17. Whiles, it is seen that in compliance of the order passed by this court in H.C.P.(MD) No.1389 of 2023, another Circular Memorandum in Rc.No.5242906/Crime 3(1)/2023 dated 15.12.2023 had been issued by the Director General of Police framing some guidelines for treating minor children/women in missing cases.

18. Therefore, it is very clear that the Police Department has been provided with all infrastructure and guidelines in the matter of tracing of missing persons. Despite the same, there appears to be some lacuna or ignorance of such guidelines by the police personnel, which culminates into filing of Habeas Corpus Petitions invoking the extraordinary jurisdiction of this court, which is a sorry state of affairs and needs to be curtailed. Therefore, while finding that the present Habeas Corpus Petitions are not maintainable, this court feels that they could be disposed of with a direction to the respondents to pursue their investigation effectively in the matter of



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tracing the missing persons in the present cases. Accordingly, the

investigation shall be continued in tracing the missing persons by the investigating officer, which shall be monitored by the Assistant Commissioner of Police concerned. The Habeas Corpus Petitions are disposed of.

[A.D.J.C.,J.] [R.P.,J.]
29.08.2025

Internet : Yes / No
Index : Yes / No
ssk.

To:

1. Commissioner of Police,
Madurai City,
Madurai District.
2. The Assistant Commissioner of Police,
Thallakulam,
Madurai City,
Madurai District.
3. Superintendent of Police,
Thanjavur District,
Thanjavur.
3. The Inspector of Police,
Thallakulam Police Station,

23/26



Madurai District.

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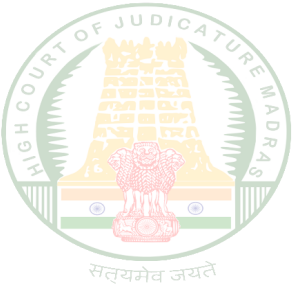
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4. The Inspector of Police,
Pattukkottai Town Police Station,
Pattukkottai.
Thanjavur District.

5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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H.C.P.(MD) Nos.793 and 658 of 2025

A.D.JAGADISH CHANDIRA, J.
and
R.POORNIMA, J.

ssk.

ORDER MADE IN
H.C.P.(MD)Nos.793 & 658 of 2025

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