



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.10.2015

CORAM:

THE HONOURABLE MR.JUSTICE S.NAGAMUTHU
and
THE HONOURABLE MR.JUSTICE V.S.RAVI

H.C.P (MD) No.1095 of 2015

N.Komalli

.. Petitioner

Vs.

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

2.The Inspector of Police,
All Women Police Station,
Kulithalai,
Karur District.

3.J.Gunasekaran

.. Respondents

PRAYER:- Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus, to direct the respondents to produce the person or body of the petitioner's minor granddaughter namely Pushpavalli, aged about 13 years, the detenu before this Court and hand over the custody to the petitioner and pass such further or other orders.

For Petitioner : Mr.Jana alias B.Janath Ahamed
For RR 1 & 2 : Mr.K.S.Durai Pandian
Additional Public Prosecutor
For R - 3 : No appearance

ORDER

[Order of the Court was made by S.NAGAMUTHU,J]

The petitioner is the grandfather of the child, by name, Pushpavalli, aged 13 years. According to him, she was kidnapped by the third respondent on 02.05.2015. In this regard, a case has been registered in Crime No.8 of 2015 has been registered under Sections 366-A I.P.C and Sections 5 and 6 of the Protection of Children from Sexual Offences Act, 2012 and the same is under investigation. Since the girl was not secured in time, the petitioner has filed the present Habeas Corpus Petition.

2. When the matter was taken up on 07.08.2015, the detenu K.Pushpavalli was produced by the second respondent. This Court enquired her and passed the following order:-

"The petitioner is the maternal grandfather of the child, by name, K.Pushpavalli, aged hardly 13 years. Her date of birth is 15.03.2002. It is alleged that the third respondent has abducted her and kept her illegally.



Therefore, the petitioner has come up with this Habeas Corpus Petition.

2. Today, the detainee, by name, K.Pushpavalli, has been produced by the second respondent, the Inspector of Police, All Women Police Station, Kulithalai, Karur District. Her mother Mrs.Mookayyi and the petitioner, by name, Mr.Komalli are also present before the Court. The minor girl would say that all along she was staying in Namakkal and working in a private firm. But, the second respondent, the Inspector of Police, All Women Police Station, Kulithalai, Karur District, would submit that the investigation has revealed that the minor girl has been sexually exploited by the third respondent. The case in Crime No.8 of 2015 has been altered into one under Sections 366-A I.P.C. and Sections 5 and 6 of the Protection of Children from Sexual Offences Act, 2012. The third respondent was arrested on 06.08.2015 and he has been remanded to judicial custody.

3.The petitioner as well as the mother of the detainee, would say that they are all agricultural coolies and they cannot stay at home to take care of the minor girl, as she may again elope. Therefore, they themselves want the minor girl to be in a Government Home for her own safety.

4.The learned counsel appearing for the petitioner would say the same thing. The minor girl, on enquiry, expressed her willingness to stay in Anbukarangal Home for Children, Karur, which is a Home authorised by the Government.

5.In view of the above, considering the safety and security of the detainee, we are inclined to direct her to be kept in Anbukarangal Home for Children, Karur, which is a Home authorised by Government, till 25.08.2015 and she would be again produced before the Court on 25.08.2015. It is further directed that the authorities of the said Home shall not permit anybody to meet the minor girl, except her mother and grandfather, namely, the petitioner. If the minor girl is required for recording her statement under Section 164 Cr.P.C. by any Magistrate, on the orders of the learned Judicial Magistrate, she can be produced. The Investigating Officer is also directed to interrogate her in the Home as and when required.

Post the matter on 25.08.2015."

3. When the matter was taken up on 25.08.2015, the detenu was produced, but the petitioner was not present. This Court passed the following order:-

"When the matter was taken up, neither the petitioner nor his counsel is present. The mother of the detenu has not also appeared today. The detenu alone has been produced by the second respondent from Anbukarangal Home for Children, Karur.



2. For the safety and security of the girl, we are of the view that she shall be kept in the same Home for a period of one month from today. The minor girl states that she is very happy in the home and she wants to continue to stay in the same Home for some time. The said statement is recorded. The second respondent shall hand over her to the Anbukarantal Home for Children, Karur.

Post the matter on 28.09.2015."

4. Again when the matter was taken up on 13.10.2015, the child was produced and this Court passed the following order:-

"The child Pushpavalli, aged 13 years, has been produced before this Court today by the 2nd respondent from the Anbukkarantal Home for Children at Karur.

2. The minor girl would state that she is willing to go with her mother. But, unfortunately, neither her mother nor her grandfather is present before this Court. The child appears to be somewhat depressed. Therefore, we deem it appropriate to direct the Chairman, Child Welfare Committee, to visit the child in the Home and counsel her. Similarly, the Chairman, Child Welfare Committee, shall visit the mother and grandfather of the child and counsel them also. She would advise them to be present before this Court on 26.10.2015.

3. The 2nd respondent shall cause the production of the minor girl before this Court on 26.10.2015. The child shall be, now, again taken back to the Home by the 2nd respondent, kept there and be produced before this Court on 26.10.2015. On that date, the Chairman, Child Welfare Committee, is directed to be present before this Court.

Post the matter on 26.10.2015."

5. Today, when the matter was taken up for hearing, the petitioner was not present. The mother of the detenu was also not present. No other relative has also made appearance. Mr. Christraj, the Chairperson, District Welfare Officer was present.

6. It appears that the detenu's grandfather, mother and relatives are not interested in taking care of the child, thus, prima facie, we are satisfied that the child in question is in need of care and protection as per the provisions of the Juvenile Justice (Care and Protection of Children) Act, 2000. Therefore, we leave it open to the Child Welfare Committee to pass appropriate orders for the care and protection of the child.

7. It is stated that because of the pendency of this Habeas Corpus Petition, no order has been passed by the Child Welfare Committee. The said statement is also recorded.

8. In view of the fact that the grandfather, mother and other relatives of the child are not interested in taking care of the child, we direct the Child Welfare Committee, Karur District to take care of the child and to pass appropriate orders. Until such order is passed, the



child Pushpavalli shall be kept in the Anbukkarangal Home for Children at Karur.

9. Ms.V.R.Selvi, the Inspector of Police, Kulithalai All Women Police Station, Karur, who is present in Court, shall take the child and hand over her to the Anbukkarangal Home for Children at Karur. Since the Child Welfare Committee is given liberty to pass orders under the provisions of the Juvenile Justice (Care and Protection of Children) Act, 2000, the authority, in-charge of the Anbukkarangal Home for Children at Karur shall hereafter obey the said order to be passed by the Child Welfare Committee.

10. In view of the above, no further direction is required in this Habeas Corpus Petition. Accordingly, this Habeas Corpus Petition is closed.

Sd/-
Assistant Registrar(Writs)

/True Copy/

Sub Assistant Registrar.

To

- 1.The Superintendent of Police,
Karur District,
Karur.
- 2.The Inspector of Police,
All Women Police Station,
Kulithalai,
Karur District.
- 3.The Chairperson, Child Welfare Committee,
1st Floor, Wangal House,
16the Chinnapalli street, Karur-639 001.
- 4.The Officer-Incharge,
Anbukkarangal Home for Children,
Karur.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1CC to Mr.Jana @ Janath Ahmed, Advocate, SR.No. 62927.

ORDER MADE IN
H.C.P (MD) No.1095 of 2015
26.10.2015