

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.06.2016

CORAM

THE HON'BLE MR.JUSTICE S.NAGAMUTHU
and
THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

H.C.P.No.3239/2016

N.Venkatesan

.. Petitioner

Vs

1. The State rep.by the Superintendent
of Police, Thiruvannamalai District,
Thiruvannamalai.
2. The Inspector of Police,
Kizhkodungalur Police Station,
Thiruvannamalai District.
3. Suresh
4. Velu Gounder
5. Ponnammal
6. Murugan
7. Mukundan
8. Balaji
9. Bala Murugan

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS directing the respondents 1 to 9 to produce the person and body of the petitioner's minor daughter Monisha, aged about 16 years, before this Court and hand over her custody to the petitioner herein.

For Petitioner : Mr.Kasthuri Ravichandran

For Respondents : Mr.V.M.R.Rajentren,
1 and 2 Additional Public Prosecutor

For respondents 3 to 9: No appearance

ORDER

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

This Habeas Corpus Petition has been filed alleging that the daughter of the petitioner by name Monisha, aged about 16 years was kidnapped by the respondents 3 to 9 and she was not secured by the police.

2. The Habeas Corpus Petition initially came before this Court on 22.12.2015. Thereafter, when the matter was taken up on 24.02.2016, this Court passed the following Order :

''This Habeas Corpus Petition has been pending from the month of December, 2015. The petitioner is the father of the detainee. The detainee, viz., Monisha, aged about 16 years, is a school going girl. According to the petitioner, the detainee was allegedly kidnapped on 13.12.2015. Though, several adjournments have been taken by the learned Additional Public Prosecutor and a status report has been filed by the 2nd respondent/The Inspector of Police, Kizhкодungalur Police Station, Thiruvannamalai District, who is the Investigating Officer, on 16.02.2016, no fruitful investigation appears to have been done.

2. A reading of the status report, dated 16.02.2016, revealed that no clue was found by the respondent police about the whereabouts of the minor girl. We are concerned with the welfare, safety and security of the minor school going girl, who is hardly aged 16 years. When we made a specific query as to, who has come to state about the developments made in the investigation, the learned Additional Public Prosecutor submitted that no body has turned up today to instruct him. Thus, the learned Additional Public Prosecutor is not in a position to place before this Court regarding the latest position of the case. It appears that even the Superintendent of Police is not taking any serious and effective steps to trace the detainee. Therefore, we are constrained to direct the Superintendent of Police, Tiruvannamalai District, to be present before this Court on 26.02.2016.

3. Call on 26.02.2016. The learned Additional Public Prosecutor shall communicate this order and shall ensure the presence of the Superintendent of Police before this Court on 26.02.2016.''

3. Again, when the matter came up for hearing on 26.02.2016, this Court passed the following Order:

'Today, as directed by this Court earlier, the Superintendent of Police, Thiruvannamalai, has made appearance before this Court. The Inspector of Police, who did the investigation, has also made appearance. They have produced the detainee, minor Monisha, before this Court. We enquired her. She informed us that her date of birth is 9.6.2000 and she is hardly aged 16 years. She further submitted that on her own accord, she went out of her parental home and married the third respondent on 13.12.2016 at Tiruppur Murugan Temple and from then onwards she was living with the third respondent as his wife. Further, she expressed her willingness to go with her parents.

2. Today, the parents of the minor girl and her maternal grandmother were also present. They expressed their willingness to take the minor girl with them to their house and to maintain her without causing any harm either physically or mentally to her, thereby ensuring her safety. The detainee told us that no action should be taken in law against the third respondent. We have explained to her that law will take its own course and we cannot concede to her request.

3. In view of the tender age of the girl and in view of the submission made before this Court by her, we deem it appropriate to pass the following interim order:

(i) The parents of minor girl Monisha, Mr.N.Venkatesan and Mrs.Thenmozhi are permitted to take the minor girl Monisha, get her into study and to maintain her, by keeping her in their custody, without causing any harm either physically or mentally. They should ensure absolute safety for her.

(ii) The President of the District Child Welfare Committee is directed to make periodical visits to the house of the petitioner to verify whether the minor girl is maintained properly there or not and to submit a report to this Court.

(iii) The District Collector, Thiruvannamalai District, shall make arrangement for a Counsellor/psychiatrist to visit the minor girl as and when require and to give counselling to her.

(iv) The Superintendent of Police, Thiruvannamalai, is directed to ensure that a Women

Inspector of Police or Sub-Inspector of Police visits the house of the petitioner everyday and make a record of her visit and verify whether the minor girl is maintained safely, without causing any harm to her.

(v) The investigating officer is at liberty to take the detainee for medical examination and for recording her submission, as required in law, by the jurisdiction Magistrate. The investigating officer is also at liberty to proceed with the investigation in accordance with law.

4. It is directed that the petitioner and the second respondent shall produce the minor girl-Monisha, on 11.3.2016 at 10.30 a.m., before this Court. The Inspector of Police- the second respondent shall file a status report also.'

4. When the matter came up for hearing on 11.03.2016, this Court passed the following Order:

'The detainee Monisha, aged about 16 years, has been produced before this Court as per the earlier directions of this Court. The parents of the detainee are also present before us.

2 The 2nd respondent- Mr.K.Ravi, Inspector of Police, Kizhkodungalur Police Station, Vandavasi Taluk, Tiruvannamalai District and M/s.S.Sathyabama, the Inspector of Police, All Women Police Station, Vandavasi, Tiruvannamalai District are present before this Court today.

3 M/s.S.Sathyabama, the Inspector of Police, All Women Police Station, Vandavasi, Tiruvannamalai District, has filed a Status Report. From the said Status Report, it is seen that the detainee Monisha has been given proper counselling.

4 We enquired her. On enquiry, she told us that after counselling, now she is free from any mental pressure. She had further stated that when she was produced before this Court, she was in constant mental pressure on account of the activities of the respondents 3 to 9 herein. She also stated that she did not go on her own volition along with the 3rd respondent herein. She was brain-washed and by deception, the 3rd respondent took her. She also stated that the ceremonies of the marriage were conducted against her wish. Thus, she dispute the very marriage itself. At any rate, now she says that she is willing to be with her parents happily. She would further submit that law may take its own course as against the respondents 3 to 9. Her

submissions were recorded.

5 In view of the above statements made by the detainee Monisha, and in view of the Status Report filed by M/s.S.Sathyabama, the Inspector of Police, All Women Police Station, Vandavasi, Tiruvannamalai District, we pass the following interim order:-

[1] The interim order which was passed on 26.02.2016 in the above Habeas Corpus Petition shall continue for another period of four weeks, i.e., till 11.04.2016.

[2] The detainee shall be produced before this Court on 11.04.2016 along with her parents and the 2nd respondent police shall also appear before this Court and submit a Status Report.

[3] If necessary, police protection shall also be given to the detainee and her parents.

6 Post on 11.04.2016.''

5. Lastly on 11.04.2016, this Court passed the following Order:

''Today, when the matter had been listed for hearing, the parents of the detainee, are present before this Court. The detainee is also present. She had stated that her parents are taking care of her. However, she had expressed her apprehension, that the third respondent, his friends and relatives may harm her and her parents. She had also stated that some of the original Certificates belonging to her and her photographs are with the third respondent.

2. The Inspector of Police, Kizhкодungalur Police Station, Tiruvannamalai District, is also present. She had stated that the investigation regarding the case had been completed and further proceedings had been taken.

3. In such circumstances, we are of the view, that the direction issued by this Court, by its Order dated 26.02.2016, shall be followed, until further orders.

List the matter on 02.06.2016''

6. Today, when the matter was taken up for hearing, the learned Additional Public Prosecutor on instructions from the police submitted that the detainee is very safe at the hands of her parents and the petitioner and his wife who are present before this Court would submit that the detainee has been admitted in AKT Academy Matric Higher Secondary School in Kallakurichi at 12th standard. Since the school has reopened, she has gone to the school. They have also produced the receipt for payment of school fees.

7. The learned Additional Public Prosecutor would submit that the girl has been admitted in the school.

8. In view of all the above, no further orders are necessary in this petition and the Habeas Corpus Petition is accordingly closed.

Sd/-
Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

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To

1. The Superintendent of Police,
Thiruvannamalai District,
Thiruvannamalai.
2. The Inspector of Police,
Kizhкодungalur Police Station,
Thiruvannamalai District.
3. The Additional Public Prosecutor,
High Court, Madras.

1 cc to Mr.M.Sanjivi Lakshmi, Advocate, sr.29282

H.C.P.No.3239/2015

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kra 13.06.2016

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