

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.07.2016

CORAM

THE HONOURABLE MR.JUSTICE **S.NAGAMUTHU**

and

THE HONOURABLE MR.JUSTICE **V.BHARATHIDASAN**

H.C.P.No.1285 of 2016

P.Rajasekar

...Petitioner

VS.

1.The Inspector of Police,
Karamadai Police Station,
Coimbatore.

2.The Commissioner of Police,
Coimbatore District.

...Respondents

Prayer : Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of habeas corpus, directing the respondents to produce the petitioner's daughter Sindhuja aged about 16 years before this Court.

For Petitioner : Mr.S.Ramesh

For Respondents : Mr.V.M.R.Rajentren

Additional Public Prosecutor

ORDER

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

The petitioner is the father of one Ms.Sindhuja, whose date of birth is 02.05.2000. Admittedly, Sindhuja is a child under the terms of POCSO Act. According to the petitioner, Sindhuja has been found missing from 03.06.2016 onwards. In respect of the same, on a complaint made by the

petitioner, a case has been registered by the first respondent in Crime No.277 of 2016 under Section 366-A IPC. Since the child Sindhuja was not rescued by the Police, the petitioner has come up with this Habeas Corpus Petition.

2. When this Habeas Corpus Petition came up on 23.06.2016, Mr.V.M.R.Rajentren, learned Additional Public Prosecutor, entered appearance for the respondents.

3. Today, he made a mention to the Court that the detainee Ms.Sindhuja has been rescued. Therefore, the matter was ordered to be listed in the special list today. Accordingly, it was taken up by 2.30 p.m., The first respondent produced Sindhuja.

4. To our shock, we find that Sindhuja bears a child. According to Sindhuja, the child was born on 30.06.2016. When we enquired her, she has stated that she had fallen in love with one Manikandan for a long time and secretly, they performed marriage also. After the marriage, according to the detainee, Manikandan had sexual intercourse with her, which resulted in her pregnancy. But she did not disclose the same to anybody, including her parents. When she was more than eight months pregnant, without disclosing the said fact either to her parents or her relatives, she

left the parental home along with Manikandan and stayed with him in Coimbatore. According to her, a child was born on 30.06.2016 and now the first respondent has rescued her. Her mother Thavamani also made appearance. The detainee would like to go with her mother and be in her custody along with the child.

5. The petitioner P.Rajasekar is not present before this Court. The detainee would state that her father P.Rajasekar has sustained injuries in an accident and therefore, he is unable to move and that is the reason why her mother has come to the Court. We enquired the mother of the detainee, Thavamani. She told us that her husband could not come to Court as he has sustained injuries. She further stated that she is a coolie by profession, and equally her husband is also a coolie. Both of them used to leave their house early in the morning for work and would return only in the evening. During the day time, the detainee used to be alone in the house. She further told us that she was not even aware of the fact that the detainee was pregnant when she was with them. She would further state that now she is willing to take back the detainee along with the child and maintain them properly. The said statement is recorded.

6. The learned Additional Public Prosecutor submitted that since the detainee Sindhuja, who is admittedly a child has been sexually exploited by

Manikandan, the above case has been altered into one under Sections 366-A IPC r/w Sections 3(a), 4, 5(i), 5(j), (ii) and 6 of POCSO Act, 2012. In connection with the said case, Manikandan, who is aged 23 years, was arrested and produced before the jurisdictional Court and remanded to judicial custody. The said statement is also recorded.

7. The appearance of the detainee who herself is a child bearing another child in her arms gave a very pathetic picture before the Court. Her mother, who is an agricultural coolie and who is obviously an illiterate woman, is unable to know the ways and means as to how to handle the situation. She would state that after some time, Manikandan may be let off, and in which case, she could entrust Sindhuja to him along with the child. That may happen after Sindhuja completes 18 years of age. It is obvious that as on today, the detainee's mother has lost her days' income; her husband also has lost his income because he has become immobilised. The family is thus in a pathetic situation and they do not have any wherewithals to maintain the child.

8. Noticing the plight of the detainee, her child and the family members, the learned Senior Counsel Mr.N.R.Elango and Mr.N.Manokaran who were present in Court, as a measure of fine gesture offered to extend helping hands to them. Mr.N.R.Elango, the learned Senior Counsel has

offered to pay Rs.20,000/- and Mr.N.Manokaran, offered to pay Rs.5,000/- to this poor family. As a matter of fact, the said amount was paid by the learned counsel in open Court through the mother of the detainee. We appreciate the said timely help extended by the learned counsel.

9. In these circumstances, this Habeas Corpus Petition is disposed of in the following terms:

i) We entrust the detainee Sindhuja along with her male child to the custody of Thavamani, mother of the detainee, for safe custody and maintenance.

ii) The first respondent, if needed, may interrogate the detainee and do the investigation in accordance with law.

iii) The first respondent viz., Inspector of Police, who is present in Court is directed to escort the detainee, her child, and her mother and safely leave them in their house at Thandi Perumalpuram, Kannuvaipalayam, Karamadi, Coimbatore.

iv) The President, District Child Welfare Committee, Coimbatore, is directed to make periodical visits to the house of

the petitioner to ensure that the detenue and her child are maintained properly, without causing any harm either physically or mentally. If need be, the President, District Child Welfare Committee, Coimbatore, may also arrange for proper counselling for the detenue and her family members.

(S.N,J.) & (V.B.D.J.,)
14.07.2016

svki

Office to note:-

Issue order copy today.

To

- 1.The Inspector of Police,
Karamadai Police Station,
Coimbatore.
- 2.The Commissioner of Police,
Coimbatore District.
- 3.The Public Prosecutor,
High Court, Madras.

S.NAGAMUTHU, J.
and
V.BHARATHIDASAN, J.
(svki)

H.C.P.No.1285 of 2016

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