

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 19-08-2016

CORAM

THE HONOURABLE MR.JUSTICE S.NAGAMUTHU
AND
THE HONOURABLE MR.JUSTICE G.CHOCKALINGAM

H.C.P.No.1490 of 2016

M.Nagaraj ... Petitioner

-vs-

1.The Inspector of Police,
Pallipattu Police Station,
Tiruvallur District.
(Cr.No.205 of 2016).

2.The Superintendent of Police,
Tiruvallur District at Tiruvallur.

3.E.Mukundan

4.Guha Lakshmi ... Respondents

Petition under Article 226 of the Constitution of India, praying for issuance of a writ of Habeas Corpus, directing the respondents to produce the body and person of the detenu by name Shilpa (minor aged about 16 years), who is the daughter of the petitioner herein and who has been found missing from 09.02.2016 onwards, before this Hon'ble Court and set her at liberty.

For petitioner : Mr.V.Pandiyan

For respondents 1 & 2: Mr.V.M.R.Rajentren,
Additional Public Prosecutor.

O R D E R

(Order of the Court was made by S.Nagamuthu,J.)

The petitioner is the father of one Ms.Shilpa. Her date of birth as per the documents available before this Court is 12.07.2000 and, thus, she is a child in terms of the Prevention of Children from Sexual Offences Act,2012. According to the petitioner, his daughter, namely, Ms.Shilpa has been found missing. Since she was not rescued, the petitioner has come up with this Habeas Corpus Petition.

2. Today, when this Habeas Corpus Petition was taken up for hearing, the first respondent produced the detenu before this Court. The petitioner and his wife also made appearance. When we enquired the detenu, she told us that

she has married one Mr.E.Mukundan, son of Elumalai, the third respondent herein, who himself is aged only 16 years. She further told that now she is pregnant by five months, out of the said wedlock. When we enquired her as to whether she is willing to go with the petitioner and her mother, she bluntly refused. Thereafter, the petitioner and his wife wanted to speak to the detainee. Accordingly, we allowed the parents to talk to the detainee for more than an hour. The detainee then appeared again before this Court and told that she is willing to go with her parents. At any rate, in our considered view, an order regarding her custody is to be passed by the competent forum. As per Section 34 of the POCSO Act, this matter has to be dealt with by the Juvenile Justice Board, constituted under the Juvenile Justice (Care and Protection of Children) Act, 2015. Therefore, without expressing any opinion regarding her custody, we direct the first respondent to produce the detainee before the Juvenile Justice Board, Tiruvallur District, who shall pass appropriate orders regarding the custody and safety of the detainee.

3. Habeas Corpus Petition is disposed of accordingly.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

1.The Inspector of Police,
Pallipattu Police Station,
Tiruvallur District. (With direction to produced
the detainee before the Juvenile
Justice Board, Tiruvallur)

2.The Superintendent of Police,
Tiruvallur District at Tiruvallur.

3.The Presiding Officer,
Juvenile Justice Board,
Tiruvallur.

4.The Public Prosecutor,
High Court, madras.

+1 cc to Mr.K.Jayapal, advocate,sr.47457.

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krd 19/8

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