

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.10.2016

CORAM

THE HONOURABLE MR.JUSTICE M.JAICHANDREN

AND

THE HONOURABLE MR.JUSTICE S.BASKARAN

H.C.P.NO.2151 OF 2016

J.Priya

... Petitioner

versus

1.The Superintendent of Police
Salem.

2.The Inspector of Police
Ethappur Police Station
Salem District.

... Respondents

PRAYER: Habeas Corpus Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Habeas Corpus directing the respondents to produce the body of the detainee namely J.Durgambiga (aged 17 years) who's whereabouts not known and produce the detainee before this Court and set her at liberty.

For Petitioner : Mr.R.Ezhilarasan

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

Additional Public Prosecutor

ORDER

[ORDER OF THE COURT WAS MADE BY M.JAICHANDREN, J.]

This Habeas Corpus Petition has been filed by the mother of the detainee with a prayer to direct the respondents to produce the detainee viz., J.Durgambiga, aged about 17 years and to set her at liberty.

2. We have heard the submissions made by the learned counsel appearing on behalf of the petitioner, as well as the learned Additional Public Prosecutor appearing on behalf of the respondents and perused the materials available on record.

3. The petitioner, who is the mother of the detenu had stated that her daughter, who is doing B.Sc., Computer Science course in Sakthi Kailash College, Salem, had gone missing, on 15.09.2016. Therefore, a complaint had been lodged before the second respondent police on 16.09.2016. The said complaint had been registered as Crime No.403 of 2016. However, as no effective steps had been taken to trace the detenu, the petitioner has filed the present Habeas Corpus Petition.

4. Today, when the matter had been listed for hearing, the learned Additional Public Prosecutor appearing on behalf of the respondents had placed before this Court a copy of the order, dated 17.09.2016, passed by the learned Judicial Magistrate - I, Attur permitting the detenu to go along with one Manikandan, who is said to have married the detenu. The learned Judicial Magistrate had found, on enquiry, that the detenu was a major, having completed 18 years of age.

5. The learned counsel appearing on behalf of the petitioner had submitted that the learned Magistrate had come to the conclusion that the detenu is a major, based on the S.S.L.C. Certificate, dated 31.05.2013, wherein, it has been stated that the date of birth of the detenu is 07.06.1998. However, the learned counsel appearing on behalf of the petitioner had contended that the detenu is a minor as her date of birth is 14.03.1999, as per the birth certificate issued by the Government of Tamil Nadu, dated 19.09.2016.

6. In such circumstances, it is noted that the detenu had been permitted to go along with one Manikandan, as per the wish expressed by the detenu, as it was found by the learned Judicial Magistrate - I, Attur that she had completed the age of 18 years. The said conclusion had been arrived at by the learned Judicial Magistrate - I, based on the S.S.L.C. Certificate dated 31.05.2013, wherein it has been shown that the date of birth of the detenu is 07.06.1998.

7. In such circumstances, this Court is of the view that the relief prayed for by the petitioner in the present Habeas Corpus Petition cannot be granted at this stage. Hence, the Habeas Corpus Petition stands closed. However, it goes without saying that it may be open to the petitioner to challenge the order passed by the learned Judicial Magistrate - I, Attur, dated 17.09.2016, before the appropriate forum, in the

manner known to law.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

To

1.The Superintendent of Police
Salem.

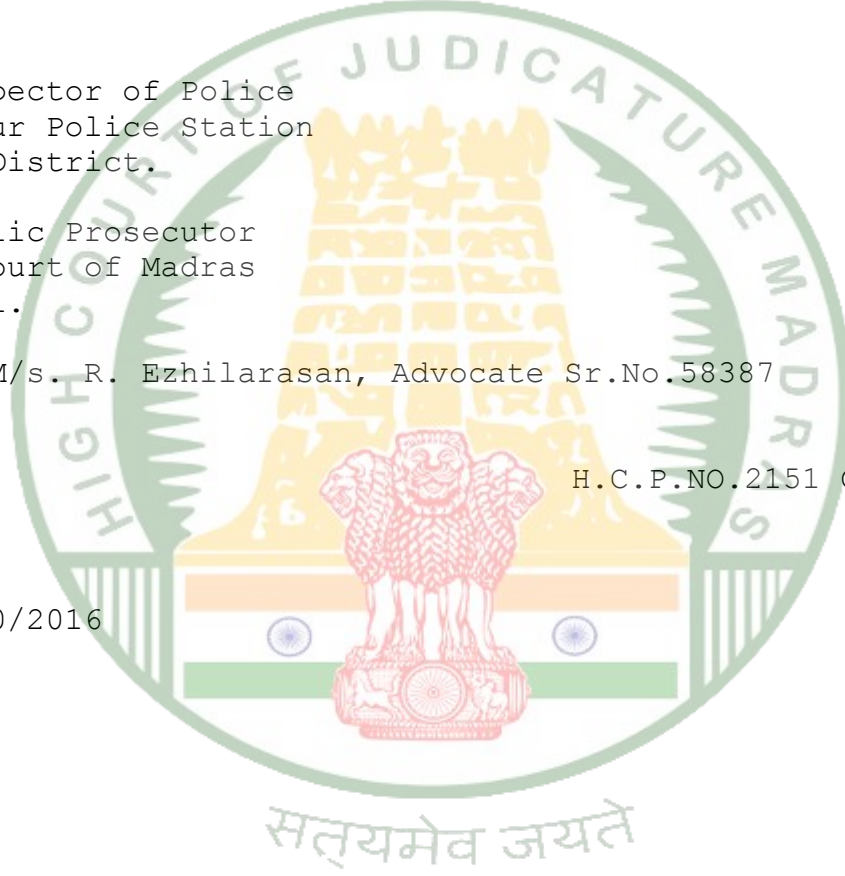
2.The Inspector of Police
Ethappur Police Station
Salem District.

3.The Public Prosecutor
High Court of Madras
Chennai.

+1 CC to M/s. R. Ezhilarasan, Advocate Sr.No.58387

H.C.P.NO.2151 OF 2016

CTK (CO)
MD : 19/10/2016



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