

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.11.2016

CORAM

THE HONOURABLE MR.JUSTICE M.JAICHANDREN

and

THE HONOURABLE MR.JUSTICE S.BASKARAN

H.C.P.No.2371 of 2016

L. Premkumar

...Petitioner

Vs.

1.Inspector of Police  
All Women Police Station  
Eraiyur Palayam,Ulundurpet  
Villupuram District.

2.The Superintendent  
Abhayam Nilayam (Kalaiselvi Karunalaya)  
100, Vaigai Square  
Thanthai Periyar Nagar  
Villupuram District.

3.Suvakian

..Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Habeas Corpus directing the first respondent to secure the detenu Arockia Mary @ Arokiammal, aged about 21 years, before this Court and to set her at liberty.

For Petitioner : M/s.Sudha Ramalingam

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

ORDER

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

The petitioner has come forward with this Habeas Corpus Petition seeking production of the detenuu, namely, Arockia Mary @ Arokiammal, before this Court and to set her at liberty.

2. On 10.11.2016, when the matter was taken up for hearing, the detenu was produced before this Court, by the second respondent. The mother of the detenu, as well as the Chairperson of the Child Welfare Committee were also present.

3. On enquiry, the detenie had expressed her desire to go along with the petitioner, who is her employer. She had further stated that she is unwilling to go along with her mother, as the mother was forcing her to marry a person, namely, Laser. She does not like to marry the said Laser.

4. The Chairman of the Child Welfare Committee, Villupuram, was also enquired. During enquiry, he has stated that the detenie had been looked after by the petitioner. On 23.8.2016, the mother of the detenie had taken the detenie from the petitioner to her residence in Ulundurpet. On reaching Ulundurpet, the mother of the detenie had insisted the detenie to marry the said Laser. Since the detenie was unwilling to marry the said Laser, she had contacted the petitioner, who in turn had lodged a complaint with the All Women Police Station and the police rescued the detenie from her parents and sent to the Short Stay Home, Abayam, Villupuram, on 8.9.2016.

5. The learned counsel appearing for the petitioner has stated that the detenie was staying in the residence of the petitioner. She was undergoing training in catering with Hot Breads, Alwarpet, Chennai. The learned counsel has submitted that the petitioner is ready to send the detenie to the said training and bear the expenses. The learned counsel has also submitted that the petitioner had been paying a sum of Rs.3000/- every month, to the detenie and the said amount had been deposited in her name, in the Axis Bank, Anna Nagar West Branch, Chennai, (S.B.A/c.No.916010018002314) and the total amount comes to Rs.1,55,000/-.

6. Further, the learned counsel for the petitioner has stated that the petitioner is also ready to meet the expenses in respect of her education and for the development of her skills in all aspects.

7. When the mother of the detenie was enquired, she had requested this Court to send the detenie along with her, but the detenie expressed her unwillingness.

8. After considering the submissions made by the learned counsel appearing on behalf of the petitioner, the Chairman of the Child Welfare Committee, the desire of the detenie and the request of the mother of the detenie, we have directed the learned counsel for the petitioner to file an affidavit of undertaking based on her submissions before this Court and the Chairman of the Child Welfare Committee was also directed to file a report and the matter was adjourned to 15.11.2016.

9. Today, when the matter was taken up for hearing, the detenie, the mother of the detenie, the Chairman of the Child Welfare Committee and the petitioner were present before this Court.

10. The learned counsel for the petitioner had filed an affidavit of the petitioner and the Chairman of the Child Welfare Committee had also filed his report.

11. We have perused the affidavit of the petitioner as well as the report of the Child Welfare Committee.

12. Paragraph Nos.2, 3, 4 and 5 of the affidavit filed by the petitioner reads as follows:-

"2. I state that I filed the above HCP to produce the detinue Arokia Mary. She was produced before the Hon'ble Court on 11<sup>th</sup> November, 2016 by the respondents. During the hearing, it was established that the detinue is an adult having attained majority and she expressed her willingness to come with me and live in our house. As she is young and has categorically refused to go with her mother who was also present before this Hon'ble Court, the detinue was asked about securing her future. She has formally studied only upto Std. IV. During the hearing, I expressed my willingness to provide for her future and even bear the expenses for her future education.

3. I understand that Father Bosco, Chairmam of the Child Welfare committee, Villupuram, who was also present before this Hon'ble Court when the detinue was produced, has arranged for the detinue Arokia Mary to undergo training in Catering with Hot Breads, Alwarpet, Chennai. I hereby undertake to send the detinue to the said concern for training.

4. I state that I have already saved money for the Detinue to the amount of Rs.1,55,000/-. I have opened a savings bank account in her name in Axis Bank, Anna Nagar West Branch and deposited the sum in the said account (SB A/c.No.916010018002314).

5. I state that, due to her informal education at my household and tuitions, Arokia Mary can now converse, read and write in English and Tamil. She can also operate computers, printers and other electronic gadgets. She has been groomed to be a self-sufficient and confident young woman with employable skills. I hereby undertake to send her to Hot Breads for her to attain catering skills and equip herself for her future."

13. From the above averments of the affidavit, it is clear that the petitioner is ready and willing to take care of the education as well as the future of the detinue. So far, the petitioner has deposited a sum of Rs.1,55,000/- in her name, in the Axis Bank, Anna Nagar West Branch, Chennai, and a copy of the Bank Statement was also enclosed to prove the same. Hereafter, the petitioner would pay a sum of Rs.3000/- per month, apart from meeting the expenses in respect of her education and for her self-development. The petitioner has also undertaken to send the detinue for the training in catering with Hot Breads, Alwarpet, Chennai.

14. In the Proceedings of the Child Welfare Committee, dated 4.11.2016, the developments, which led to taking the custody of the detinue, had been narrated.

15. It is stated that as the detinue had expressed her desire to learn catering, she was transferred to Mariyalaya and sent for the training in Catering in Chennai. Thus, it is clear that the detinue is under the care of Mariyalaya.

16. We have also perused the Aadhar Card produced before this Court. In the Aadhar Card, the detinue's date of birth is shown as 3.6.1995. Therefore, it is clear that the detinue is a major, as on date.

17. The detinue being a major, having expressed her unwillingness to go along with her mother, expressed her desire to go along with the petitioner and the petitioner had also filed an affidavit of undertaking that he would provide all kinds of assistance for her education and for the development of her skills in the field of her choice, apart from providing safety and security to the detinue.

18. In such circumstances, considering the welfare and the future of the detinue, we are of the considered view that the detinue can be permitted to go along with the petitioner on certain conditions.

Accordingly, the detinue is permitted to go along with the petitioner on the following conditions:-

- a. The petitioner shall deposit a sum of Rs.3000/- per month, in the name of the detinue, in her Savings Bank Account No.916010018002314, in the Axis Bank, Anna Nagar West Branch, Chennai, from the next month onwards, i.e., from December, 2016, without fail.
- b. The detinue shall be sent for the training in Catering in Hot Breads, Alwarpet, Chennai, and the expenses for such training shall be borne by the petitioner.

c. The detenue shall hand over the personal earnings, if any, after meeting her personal requirements, if any, to the petitioner and on receipt of the same, the petitioner shall deposit the same in the account of the detenue.

d. The petitioner shall put the said amount of Rs.1,55,000/- in a fixed deposit, either in the same bank or in anyone of the nationalised banks, initially for a period of three years and thereafter, renew the same for further periods, till the amount is required by the detenue for her welfare and future.

e. The parents of the detenue shall be permitted to meet the detenue, whenever they would like to meet her, without any hindrance.

f. The Child Welfare Committee shall monitor the compliance of this order, once in every three months.

In the event of non-compliance of anyone of the conditions, either the Child Welfare Committee, or the detenue herself or her parents can very well approach this Court for obtaining the appropriate relief.

The Habeas Corpus Petition is ordered, accordingly.

Sd/-  
Asst.Registrar

/true copy/

Sub Asst. Registrar

rnb

To

1. Inspector of Police  
All Women Police Station  
Eraiyur Palayam  
Ulundurpet  
Villupuram District.

2. The Superintendent  
Abhayam Nilayam (Kalaiselvi Karunalaya)  
100, Vaigai Square  
Thanthai Periyar Nagar  
Villupuram District.

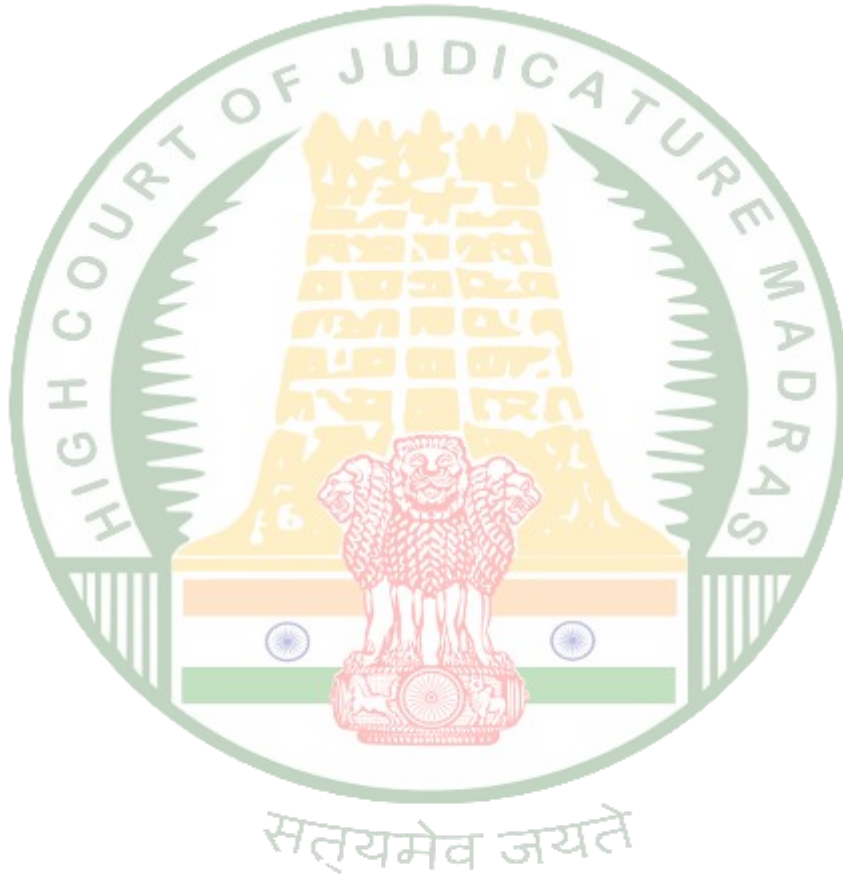
3.The Child Welfare Committee, Villupuram

4.The Public Prosecutor, High Court, Madras.

+2 cc to M/s Sudha Ramalingam, Advocate SR.65696

H.C.P.No.2371 of 2016

AK(CO)  
RVR 03/01/2017



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