

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 25..10..2016

CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Criminal Original Petition No.23888 of 2016

Hamjad, rep by his mother
and natural guardian

... Petitioner

-Versus-

The State Rep. by its
Inspector of Police,
W-23, All Women Police Station,
Royapettah,
Chennai 600 014.

... Respondent

Prayer: This petition is filed under Section 482 Cr.P.C. praying to direct the Juvenile Justice Board, Chennai, to consider the bail petition and pass appropriate orders on the same day of production of the petitioner by her mother under Section 12 of the Juvenile Justice (Care and Protection of Children) Act, in connection with the case in Crime No.4 of 2016 pending on the file of the respondent police.

For Petitioner : Mr.L.Gavaskar

For Respondent : Mr.C.Emalias, APP

ORDER

This petition has been filed seeking a direction to the Juvenile Justice Board, Chennai, to consider the bail application of the petitioner on the same day on his surrender and release him on bail.

2. Heard both sides and also perused the records carefully.

3. This court, while dealing with a batch of identical cases in Ajit Kumar v. State [Crl.O.P.(MD) Nos.1785 of 2016, 1941, 2073, 2047 and 2224 of 2016 ordered dated 16.02.2016], has observed as follows:-

"13. Section of Act 2 of 2016 also has non obstante clause, indicating the legislative intent, that the source of power to grant bail under this Act is independent from that of the Code. Section 5 of Code of Criminal Procedure indubitably protects the procedures laid down in special statutes from the onslaught of the provisions of the Code in the absence of a specific provision to the contrary in the Code. This rests on the principle Generalia Specialibus Non Derogant (special law prevails over general law). The non obstante clause used in Section 1(4) and Section 12 of the Juvenile Justice Act cited supra denudes the power of this Court to issue such directions under Section 482 Cr.P.C. Section 482 cannot be used to foreclose the power of the Board to conduct a full fledged enquiry under Section 12 of the J.J.Act.

14. Therefore, this Court has no jurisdiction under Section 482 Cr.P.C. to give such directions as prayed for by the petitioners in matters concerning a special statute, namely, the Juvenile Justice Act, and directing the Board to act in breach of law, however, noble it may seem to appear.

In the result, all these petitions stand dismissed and it is left open to the respective Juvenile Justice Boards to decide the cases without in any way being influenced by what is stated above and pass orders in accordance with law."

4. In view of the above, this criminal original petition is close and it is left open to the Juvenile Justice Board, Chennai, to decide the case without in any way being influenced by what is stated above and pass appropriate orders in accordance with law.

WEB COPY

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

kmk

To

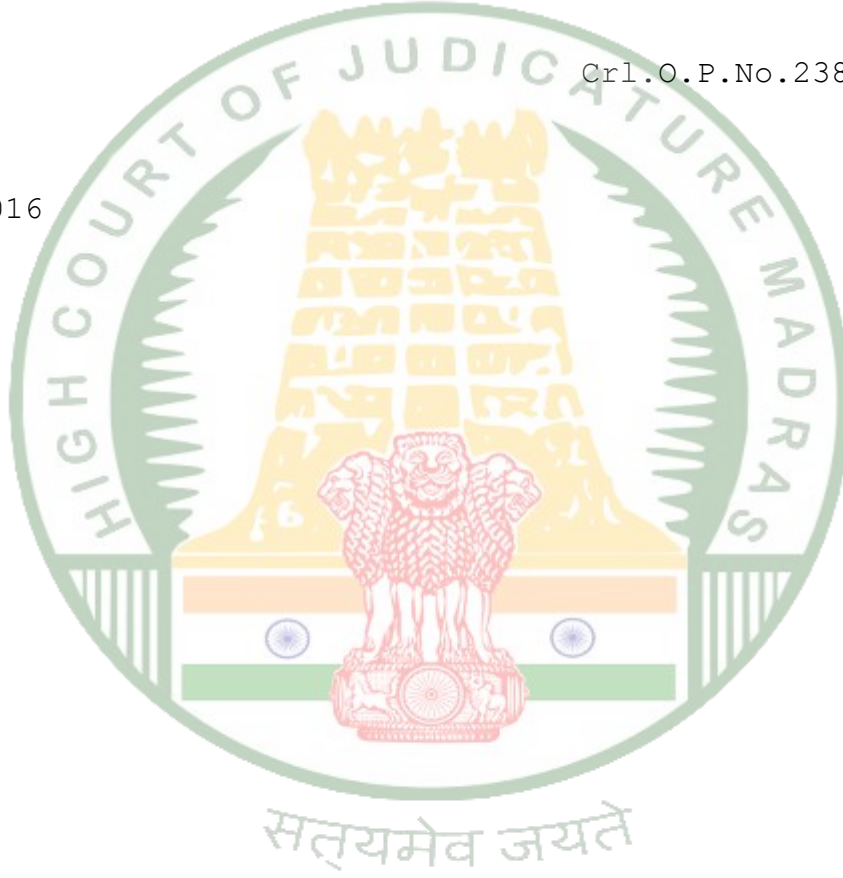
1.The Juvenile Justice Board,
Chennai.

2.The Inspector of Police,
W-23, All Women Police Station, Royapettah,
Chennai 600 014.

3.The Public Prosecutor
High Court Madras

Crl.O.P.No.23888 of 2016

ks (co)
aa23/11/2016



WEB COPY