

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.06.2016

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

CrI.OP.No.9315 of 2016

M.Sahayarani

... Petitioner

Vs

1.D.Sugumar

2.State rep.by

The Inspector of Police,
Anupparpalayam Police Station,
Tiruppur District.

... Respondents

Prayer:- Criminal Original Petition filed under Sections 482 and 483 of the Code of Criminal Procedure to call for the records of CMP No.101 of 2015 in Crime No.1005 of 2015 of the Juvenile Justice Board, Tiruppur, as per order dated 19.10.2015 and quash the same.

For Petitioner : Mr.T.Karthik Srinath

For Respondents : Mr.C.Emalias
Additional Public Prosecutor for R2

ORDER

This petition has been filed to quash the proceedings of the Juvenile Justice Board dated 19.10.2015 in CMP No.101 of 2015 in Crime No.1005 of 2015.

2.It is seen that the petitioner is the grandmother and her daughter, who got married to the 1st respondent, died, leaving behind her two children. The children are in the custody of the 1st respondent/D.Sugumar, who is the father and natural guardian. While so, on the complaint given by the petitioner, the respondent registered a case in Crime No.1005 of 2015 for children missing, challenging which, the two children represented by their natural guardian 1st respondent, filed CrIOP No.SR.47093 of 2015 before this Court. Since the Registry raised the question of maintainability of the petition, the same was listed before this Court for deciding the issue of maintainability. This Court, after hearing the parties, has passed the following orders:

"2.It is seen that on a complaint lodged by Sahayarani that her two grand children are missing, the respondent Police have registered a case in Crime No.1005 of 2015 as "child missing", challenging which, the two minor children represented by their father and natural guardian are before this Court for quashing the FIR.

3.The learned counsel for the petitioners submitted that the two children were earlier living with their grandmother and now they are living with D.Sukumar, their father and natural guardian and therefore, the FIR., has to be quashed.

4.When two children have been missing, the grandmother would have panicked and she would have given the complaint, based on which, the FIR., was registered as "child missing" and that the FIR., cannot be quashed without the production of children before the Investigating Officer. However, the learned counsel for the petitioner submits that the Investigating Officer is harrasing D.Sukumar and asking him to hand over the children to their grandmother. This cannot be the reason to quash the FIR., However, D.Sukumar is directed to produce the two children before the Juvenile Justice Board, Tirupur within one week from the date of receipt of a copy of this order and Juvenile Justice Board shall conduct enquiry with the children and pass appropriate orders.

5.Registry is directed to draft the order as MPSR and mark a copy of this order to the petitioner on payment of charges and also mark a copy to the respondent Police and Juvenile Justice Board, Tirupur."

3.Pursuant to the order passed by this Court, it appears that the Juvenile Justice Board has conducted an enquiry and during the course of enquiry, the children seems to have stated that they want to stay along with their father and now, the children are in the custody of their father /D.Sugumar. Challenging the proceedings of the Juvenile Justice Board, the petitioner/grandmother is before this Court, alleging that the Juvenile Justice Board has passed orders without giving opportunity of hearing, to the petitioner. Admittedly, D.Sugumar is the father of two children and he is the natural guardian. If the grandmother wants the custody of the children, it is open to her to approach the Competent Court of law for her guardianship and she cannot seek her remedy before the Juvenile Justice Board.

Under such circumstances, this Criminal Original
Petition is dismissed, as it is devoid of merits.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

mps

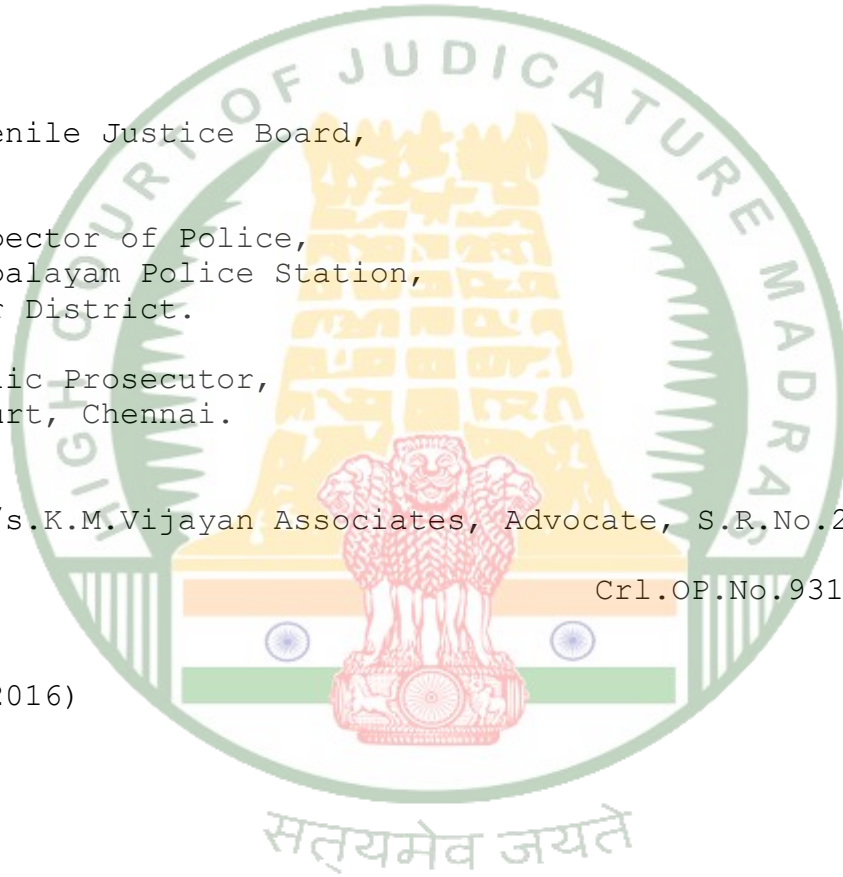
To

- 1.The Juvenile Justice Board,
Tirupur.
- 2.The Inspector of Police,
Anupparpalayam Police Station,
Tiruppur District.
- 3.The Public Prosecutor,
High Court, Chennai.

+1cc to M/s.K.M.Vijayan Associates, Advocate, S.R.No.29025

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CTK(CO)
CA(10/06/2016)



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