



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.06.2016

CORAM:

THE HONOURABLE DR.JUSTICE P.DEVADASS

C.R.L.RC(MD) No.342 of 2016

Murugan

...Petitioner / Petitioner
Defacto complainant

-vs-

The State rep. by its
The Inspector of Police,
Thirupparankundram Police Station,
Madurai.
(Crime No.312 of 2016)... Respondents/Complainant/
Complainant

PRAYER: Criminal Revision Petition is filed, under Section 397 r/w 401 Cr.P.C., to call for the records relating to the order of the learned District and Sessions Judge, Mahila Court, Madurai dated 27.05.2016 in Cr.M.P.No.670 of 2016 in Crime No.312 of 2016 on the file of the respondent police and set aside the same and hand over the custody of girl namely Devayani aged about 17 years to the petitioner.

For Petitioner	:	Mr.P.Venkateshan
For Respondent	:	Mr.S.Prabha Govt.Advocate (Crl.Side)

O R D E R

The trial Court should not pass orders on hypothetical consideration. Supposition and presumption should not be basis for passing judicial orders.

2.Judicial discretion must be exercised based on sound reasoning. Judicial orders should not be based on air. Judicial orders should not be based on apprehension, fear, astrology and assumption.

3.Now, in this revision, a father, whose daughter is kept in Home, other words, who has been remanded to Home, seeks her release.

4.Daughter of the revision petitioner came to be concerned in a case of elopement with her lover. The accused is in jail. However, the victim girl is in Protective Home. It is seen that the victim girl was secured by the police and produced before the Additional Sessions Judge. The Revision Petitioner, who is the father of the victim girl as well as his wife wanted to take care of their daughter who is a minor. The victim girl is also willing to go along with them. But the learned Magistrate is not willing to allow her, because the Magistrate entertained apprehension based on a notion that in such circumstances, fathers will kill the



daughters. If that is their case, every girl has to be sent to Home and the Home will be flooded with girls.

5. What the Judge has to do is, he may prescribe appropriate conditions to safeguard the life of the girl. If there is concrete information that there is danger to the life of the girl at the hands of the father, he can keep her in Home. But that is not the situation here. Father and Mother both want the custody of their daughter. Instead of sending her to her parental Home the Judge has sent her to Observation Home. The situation in said Home will not be as conducive as in her Home. Practically now she is in trauma. She needs her parental care and counselling. The Judge must think practically. He should not base his knowledge and newspaper heading.

6. Now, come to this case, the order passed by the learned Additional Sessions Judge suffers from regularity and propriety. It requires revision.

7. Ordered as under:

This Revision is allowed. The Additional Sessions Judge, Mahila Court, Madurai will direct the Officer concerned of the Home to entrust the custody of the victim girl Devayani D/o. Murugan to the custody of her father/revision petitioner. The revision petitioner and his wife are solely and personally responsible for the safety and security of the victim girl. They shall also file an affidavit to that effect before the Court.

Sd/
Assistant Registrar(W)

/True Copy/

Sub Assistant Registrar.

To:

1. The District and Sessions Judge, Mahila Court, Madurai.
2. The Additional Sessions Judge, Mahila Court, Madurai.
3. The Government Advocate (Criminal Side), Madurai Bench of Madras High Court, Madurai.
4. The Inspector of Police, Thirupparankundram Police Station, Madurai.
5. The Section Officer, Criminal Section, Madurai Bench of Madras High Court, Madurai.
6. The Chair Person, Child Welfare Committee, Muthupatti, Madurai.

+1CC to M/S.P.Venkateshan, Advocate, SR.No. 28675

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AM/GSV.PM/SAR-III/09.06.2016/2P/8C