



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.09.2016

CORAM:

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THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN
and
THE HONOURABLE MS. JUSTICE V. M. VELUMANI

H.C.P(MD)No.1241 of 2016

S. Sathya : Petitioner

Vs.

1. The Inspector of Police,
Papanasam Police Station,
Thanjavur District.

2. S. Saraswathi,
The Child Welfare Officer,
District Child Welfare Office,
Government Child Welfare Home Campus,
Thanjavur-613 007. : Respondents

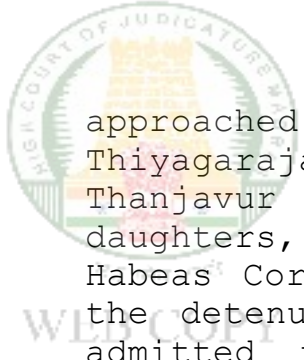
PRAYER: Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus, to direct the first respondent to produce the petitioner's daughter namely Gopika D/o. Subramani (detenu) is aged about 12 years, either in person by body before this Court from the illegal detention of the second respondent and hand over the custody to the petitioner.

For Petitioner : Mr. Jeyakumaran
For Respondents : Mr. A. Ramar
Additional Public Prosecutor.

O R D E R

**[Order of the Court was made by
M. SATHYANARAYANAN, J.]**

The petitioner is the mother of the detenu and according to her, she got married with one Subramani @ Balasubramani and out of their wedlock, three children, namely, Gopika, Pragatheeswaran and Gokul, were born and now they are aged 12 years, 9 years and 3 years, respectively. On the death of her husband, she married to one Velayutham. While so, in the year 2014, the petitioner had



approached her relative, namely, one Rakinai, Wife of Thiagarajan, residing at Amman Nagar, Padugai Pudhu Street, Thanjavur and requested her to get admission for one of her daughters, namely, Gopika, who is the detainee in the present Habeas Corpus Petition, in a School at Pabanasam. Accordingly, the detainee custody was entrusted to the said Rakinai. She was admitted in Pabanasam Vidya Padasalai School, Thanjavur. The petitioner, later on, came to know that at the instance of the Child Welfare Officer, the second respondent herein, a case in Crime No.328/2016 came to be registered as against the said Rakini and her daughter Saranya for the alleged commission of offence punishable under Section 324 of IPC and Section 75 of Juvenile Justice (Care and Protection) Act, 2005. As a consequence, the custody of the detainee was taken from those persons and she has been kept in Annai Sathya Children Welfare Home.

2. The grievance of the petitioner is that despite she has approached the second respondent to return her child, who took the custody of her child, she has not been given to the petitioner and hence, she came forward with the present Habeas Corpus Petition .

3. When the matter is listed today, the Sub-Inspector of Police, attached to Papanasam Police Station, Thanjavur District is present and Ms.Suganthavalli, the Child Welfare Officer, attached to the second respondent is also present before this Court.

4. This Court enquired the said Ms.Suganthavalli. She would submit that on the registration of the case, the custody of the detainee was taken from the said Rakini and her daughter Saranya. She would further submit that some parts of the body was injured on account of brandishing and taking into consideration, the interest and welfare of the child, the custody was taken and at present, she is lodged in Annai Sathya Children Welfare Home and she is willing to abide by any orders passed by this Court. The detainee also expressed her willingness to go with her mother/petitioner. The mother of the petitioner was also enquired and she would state that her two children are educated and she will also educate the detainee also and prays for entrustment of the custody of the child/detainee.

5. This Court has carefully considered the rival submissions and also produced the materials before this Court.

6. In the light of the statement made by the official attached to the second respondent coupled with the enquiry made with the petitioner, this Court is of the view that the second respondent should entrust the custody of the child to the mother, namely, the petitioner herein, forthwith, on receipt of a copy of this order. It is also made clear that as and when the petitioner



approaches the Papanasa Vidya Padasalai, Papanasam, Thanjavur District, for getting her child to be admitted in some other school, the original Birth Certificate, Transfer Certificate and other relevant Certificates, if any, shall be handed over to the petitioner forthwith.

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7. This Habeas Corpus Petition is disposed of accordingly.

Sd/
Assistant Registrar (AS)

/True Copy/

Sub Assistant Registrar

To

1.The Inspector of Police,
Papanasam Police Station,
Thanjavur District.

2.Ms.S.Saraswathi,
The Child Welfare Officer,
District Child Welfare Office,
Government Child Welfare Home Campus,
Thanjavur-613 007.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

4 The Headmistress ,
Papanasam Vidya Padasalai,
Papanasam, Thanjavur District,

+1 cc to MR.J.JEYAKUMARAN, Advocate SR.NO.52101

H.C.P (MD) No.1241 of 2016
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SMA/AAL-MPA/SAR-III/15/09/2016 :3P/6C