



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.10.2016

CORAM:

THE HONOURABLE MR.JUSTICE S.NAGAMUTHU

AND

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

H.C.P.(MD)No.1242 of 2016

Amutha

: Petitioner

Vs.

1.The Inspector of Police,
Irukkankudi Police Station,
Virudhunagar District.

2.Thirukumaran

: Respondents

Prayer: Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Habeas Corpus, directing the first respondent to produce the body or person of the detenu, namely A.Ilayarani (aged 17 years) D/o.Arjunan before this Court and hand over her custody to the petitioner.

For Petitioner : Mr.G.Thalaimutharasu

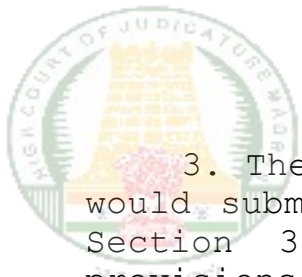
For Respondent No.1 : Mr.A.Ramar,
Additional Public Prosecutor

ORDER

(Order of the Court was made by **S.NAGAMUTHU, J.**)

The petitioner is the mother of one A.Ilayarani, D/o.Arjunan, aged 17 years. The date of birth of A.Ilayarani is 02.09.1999 and as such, she is a child in terms of the Protection of Children from Sexual Offences Act, 2012. It is alleged by the petitioner that the detenu has been found missing from 31.08.2016 onwards. In this regard, on a complaint made, a case has been registered in Crime No.183 of 2016 on the file of the first respondent for the offence under Section 366(A) of the Indian Penal Code. Since the detenu, minor girl, was not secured, the petitioner has come up with the present Habeas Corpus Petition.

2. Today, when the Habeas Corpus Petition was taken up for hearing, the first respondent produced the detenu-A.Ilayarani. When we enquired her, she told us that her date of birth is 02.09.1999, but, she married the second respondent on 01.09.2016 in a temple at Tenkasi and thereafter, she went along with the second respondent to Chennai, where she lived with him as his



3. The learned Additional Public Prosecutor, on instructions, would submit that the case has been now altered into one under Section 376 of the Indian Penal Code and also under the provisions of Protection of Children from Sexual Offences Act, 2012. The second respondent was arrested and remanded to judicial custody.

4. When we enquired the detenu-A.Ilayarani, as to whether she is willing to go with the petitioner, she told us that she is not willing to go with the petitioner and she prefers to be in a Home.

5. At any rate, in our considered view, appropriate custody order is to be passed only by the Special Court constituted under the Protection of Children from Sexual Offences Act, 2012.

6. Therefore, we direct the first respondent to produce the detenu-A.Ilayarani today itself before the Special Court under the Protection of Children from Sexual Offences Act, 2012, Virudhunagar District at Srivilliputhur and on such production, the Special Court shall pass appropriate order regarding the custody of the minor girl, namely A.Ilayarani.

7. The Habeas Corpus Petition is disposed of with the above direction.

Sd/
Assistant Registrar(RTI)

/TRUE COPY/

Sub Assistant Registrar

To

1. The Special Court under the Protection of Children
from Sexual Offences Act, 2012,
Virudhunagar at Srivilliputhur.

2.The Inspector of Police,
Irukkankudi Police Station,
Virudhunagar District.

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

+1cc to M/S.G.Thalaimutharasu, Advocate in SR.No.60926

Order made in
H.C.P.(MD) No.1242 of 2016
17.10.2016