



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.09.2016

CORAM:

THE HONOURABLE MR.JUSTICE S.NAGAMUTHU
AND
THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

H.C.P. (MD) No.1283 of 2016

Vanitha : Petitioner

Vs.

1.The Commissioner of Police,
Madurai City,
Madurai.

2.The Inspector of Police,
All Women Police Station,
Thirupparankundram,
Madurai City.

3.The Chairperson,
Child Welfare Committee,
21 & 22, Kennet Nagar,
Muthupatti,
Madurai-625 003.

: 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 third respondent to produce the body or person of my minor daughter D.Kaviya, D/o.(late) Durai, aged 16 years before this Court and set her at liberty forthwith.

For Petitioner : Mr.M.Arun Murugan

For Respondents 1&2 : Mr.A.Ramar,
Additional Public Prosecutor

ORDER

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

The petitioner is the mother of one D.Kaviya, D/o.(late) Durai, aged 16 years. Admittedly, Ms.Kaviya is a child. She was rescued by the Child Line on 18.08.2016, as a child marriage was celebrated to her with one Mr.Vinothkumar and she was sexually abused by him. On a complaint made by the Child Welfare Committee, Government of Tamil Nadu, Madurai District, a case has been registered against Vinothkumar in Crime No.5 of 2016 under Section 9 of the Prohibition of Child Marriage Act.



2. The learned Additional Public Prosecutor would submit that a case would be altered into under the provisions of the Protection of Children from Sexual Offences Act, 2012 and the investigation would be further taken up.

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3. The child is kept in a Home as per the order of the Child Welfare Committee. When that be so, the petitioner has come up with this Habeas Corpus Petition alleging that the detention of the child in the Home is illegal and accordingly, the petitioner wants the child to be liberated.

4. We have heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing on behalf of the first and second respondents. We do not order notice to the third respondent, in view of the nature of the order that has to be passed in this petition.

5. A perusal of the Case Diary in Crime No.5 of 2016 would go to show that the said case was registered on the allegation that a child marriage was celebrated between Vinothkumar and the child in violation of the Protection of Children from Sexual Offences Act, 2012 and she was also sexually abused. Prima facie, Mr.Vinothkumar has committed offences against the child. Though the petitioner claims that she was not aware of the marriage, she did not object to the same. At any rate, in our considered view, since the order passed by the District Child Welfare Committee is appealable, under Section 101 of the Juvenile Justice (Care and Protection of Children) Act, 2015, no relief could be granted in this Habeas Corpus Petition to the petitioner. She is at liberty to work out her remedy before the appropriate forum. The Habeas Corpus Petition is, accordingly, dismissed.

Sd/-

Assistant Registrar(AS)

/True copy/

Sub Assistant Registrar

To

1.The Commissioner of Police,
Madurai City,
Madurai.

2.The Inspector of Police,
All Women Police Station,
Thirupparankundram,
Madurai City.



3.The Chairperson,
Child Welfare Committee,
21 & 22, Kennet Nagar,
Muthupatti,
Madurai-625 003.

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

+1cc to Mr.M.Arun Murugan, Advocate SR.No.54314

sml

sm:SS2:28/09/2016:3P/6C

Order made in
H.C.P. (MD) No.1283 of 2016
Dated:
21.09.2016