



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.10.2016

CORAM:

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

H.C.P.[MD].No.1290 of 2016

R.Nagarajan

.. Petitioner

Vs.

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

2.The Inspector of Police,
C5, Karimedu Police Station,
Madurai District.

.. Respondents

PRAYER: Habeas Corpus Petition is filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, directing the respondents to produce the body or the person of the petitioner's minor daughter namely Pandi Selvi, aged 17 years, before this Court and hand over custody to the petitioner.

For Petitioner : Mr.M.M.Iqbal

For respondents : Mr.A.Ramar,
Additional Public Prosecutor

ORDER

The petitioner is the father of one Pandiselvi, aged 17 years. Her date of birth is 03.07.1999. According to the petitioner, the minor has been found missing from 15.09.2016. In this regard, on the complaint made, a case has been registered by the second respondent Police. Since she has not been secured, the petitioner has come up with this Habeas Corpus Petition.

2.When the matter was taken up for hearing today, the detenu was produced by the second respondent. The second respondent told us that the child was kept in Sakthi Vidial Home, Muthupatti, Madurai, as per the order passed by the District Child Welfare Committee.

<https://hcservices.ecourts.gov.in/hcservices/>

3.On our direction, the Chairman, District Child Welfare



Committee also made appearance today. He told us that the child in question was produced by a member of the committee by name K.Maheswari and she produced the child before the committee on 03.10.2016. The Chairman further told that he made enquiry, as required under Section 36 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (hereinafter referred to as "the Act") and recorded the statement of the child, in which she has stated that since her parents were making arrangement for her marriage, she went out, stayed at many places and at last, found one Murugesan, with whom she had sexual intercourse and then, she was taken to Coimbatore, where Mr.Murugesan married her in a temple and thereafter, lived with her as her husband. The Chairman further told that the information regarding the custody of the child has also been made to the Police. The statutory information was also given to the parents. It is now stated that as per the order made under Section 36 of the Act by the Committee, the child is kept in Sakthi Vidiyal Home, Muthupatti, Madurai.

4. The learned Additional Public Prosecutor, on instructions, from the Inspector of Police would submit that the case has been altered into one under the Protection of Children from Sexual Offences Act, 2012 and that the said Murugesan has been arrested and remanded to judicial custody.

5. In view of the above position, we send back the child to Sakthi Vidiyal Home, 21, Kennet Nagar, Muthupatti, Madurai -625 003, in pursuance of the order made under Section 36 of the Act by the District Child Welfare Committee.

6. The learned counsel for the petitioner submitted that the child may be entrusted to the custody of the petitioner. Since there is an order made under Section 36 of the Act, it is for the petitioner to work out his remedy under Section 101 of the Act.

7. With the above observation, this Habeas Corpus Petition is closed. However, we make it very clear that if the child is required for the purpose of further investigation by the Police, the authorities of Sakthi Vidiyal Home, Muthupatti, Madurai shall co-operate with the Police and entrust the child for examination like, statement to be recorded under Section 164 Cr.P.C., medical examination, etc.

Sd/-
Assistant Registrar(CSII)

/True Copy/

Sub Assistant Registrar

gcg



To

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

2. The Inspector of Police,
C5, Karimedu Police Station,
Madurai District.

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

COPY TO

Sakthi Vidiyal Home,
21, Kennet Nagar,
Muthupatti, Madurai - 625 003

+1cc to Mr.M.M.Iqbal, Advocate Sr.No. 61224

JAM/18.10.16/CK/SAR I/3P-6C

Order made in
H.C.P. [MD] .No.1290 of 2016
18.10.2016