



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED :24.11.2016
CORAM

WEB COPY

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

H.C.P (MD) No. 1531 of 2016

P.JEYAMMAL
W/O.S.PANDI 3/38 WEST STREET V.
PERUMALPATTI USILAMPATTI
UTHAPPANAYAKANUR MADURAI 625 537 .. Petitioner
vs.

- 1 THE SUPERINTENDENT OF POLICE
MADURAI RURAL MADURAI DISTRICT.
- 2 THE INSPECTOR OF POLICE
USILAMPATTI POLICE STATION MADURAI
DISTRICT.
- 3 CHILD WELFARE COMMITTEE
VIDIYAL SHELTER HOME NO.21 & 22 KENNET
NAGAR MUTHUPATTI MADURAI 625 003. .. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, praying for issuance of a writ of Habeas Corpus directing the Respondents 1 and 2 to produce the body of the detenu namely Crystal (Minor) aged 14 years D/o. Pandi from the illegal custody of the 3rd respondent before this Honourable Court and handed over to the petitioner.

For Petitioner :Mr.S.R.Sathan Boopathy
For Respondents :Mr.A.Ramar
(1&2) Additional Public Prosecutor
ORDER

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

This petition has been filed seeking the production of one Crystal, aged 14 years alleging that she is the daughter of one Pandi and the petitioner herein. The matter is under investigation at the end of the 2nd respondent.

2. When the matter was taken up for hearing on 16.11.2016, we passed the following order:

"The petitioner claims to be the mother of one Crystal, who is presently aged 14 years. The petitioner's husband is one S.Pandi. Both of them have made appearance before this Court. According to the petition, on 03.04.2003, the petitioner gave birth to a female child. The said child was the 2nd female child



to the couple. But her husband Mr.Pandi was not happy with the birth of a female child as his expectation was for a male child. Therefore, according to the petitioner, hardly within 10 days, without the knowledge of the petitioner, her husband took the child and handed over the child to one Vijaya of Usilampatti. [Miss.Vijaya is at present in her house at Kavanampatti Road, Usilampatti.] When her husband returned after two weeks, he fought with the petitioner and deserted her. Thereafter he returned only after three years.

2. According to the petitioner, the fate of the child was not known to her. Now, in the year 2016, the petitioner allegedly came to know that the child was entrusted by Vijaya to a Children home known as 'Love and Care' at Madurai. It is brought to our notice that on inspection made by the officials of the Social Welfare Department, it was found that the said home was run without any registration and there were 102 children and many of the children were repatriated to their parents and some of the children, whose parents could not be ascertained, were produced before the District Child Welfare Committee and on the orders of the Committee, the children were returned to various registered children homes. This girl "Crystal" is now in the Government Home at Kellis, Chennai, as directed by the District Committee. She is now doing 9th standard. It is also brought to our notice by the Chairman of the Child Welfare Committee that when the petitioner made claim for the child, she was not able to produce any document in support of the same. The child, quite naturally, was not in a position to recognise. Therefore, further enquiry is in progress to find out the parentage.

3. The petitioner has also produced a copy of the birth certificate issued by the Commissioner of Usilampatti Municipality, which shows that the birth of the female child was registered by the authorities as early as on 11.04.2003 including the name of the child. When we enquired the husband of the petitioner, Mr.Pandi, he told us that he entrusted the child to Miss.Vijaya. Ms.Vijaya was found in possession of five children in her possession, who were all new born babies. It is not known as to what had happened to those children and what was the role played by her or anybody else in the matter. This, in our considered view, is a serious matter, which requires a thorough enquiry. Therefore, we deem it appropriate to issue a direction to Mr.Om Pragash Meena, IPS, Assistant Superintendent of Police, Oomachikulam Sub Division, Madurai District to hold an



enquiry into these episodes and come up with a detailed report to this Court on 24.11.2016.

Post the matter on 24.11.2016."

3. Today, when the matter was taken up for hearing, the petitioner and her husband Mr. Pandi made appearance before this Court. The Assistant Superintendent of Police, Mr. Om Prakash Meena, Oomachikulam Sub Division, Madurai District is also made appearance and he has also filed a detailed report, as directed earlier, after holding necessary enquiry. In his report, he has stated that a second female child was born to the petitioner and her husband on 03.04.2003 and on the 8th day of the birth of the child, the petitioner's husband, without her knowledge, took the child and handed over her to one Vijaya Christi of Usilampatti. The report further states that the petitioner's husband was not happy with the birth of the second female child. In his report, it is further stated that Vijaya gave shelter and grew her up along with the other six children. He has further reported that after the year 2007, since her own children grew up and went up for higher education to some other places, she was unable to maintain the female child, who is named as "Crystal". Therefore, she handed over the child to a Child Home by name 'Love and Care 333 India' at Madurai through one Pastor J.J.Y.Arul. He has further reported that the child Crystal was in the said Home between 2007 to 2015. She studied up to 5th standard in the Love and Care Vidyalaya run by the Pastor J.J.Y.Arul. It is further stated that in order to provide her education, Mr. Arul has admitted Crystal at D.M. & R Girls High School, North Masi Street, Madurai on 10.06.2013 in 6th standard. There, she studied upto 8th standard. On 04.09.2015, Crystal left the school, since the child Home, namely, Love and Care, was closed by the Government Authorities on 03.09.2015 due to some allegations against the Love and Care Home and the Child Welfare Committee rescued 102 children from the said Home. Under the said process, the child Crystal was also rescued by the Child Welfare Committee, thereafter, she was put in a Home for Children by name Sevasramam on 03.09.2015. Subsequently, on the directions by the Child Welfare Committee, on 05.11.2015, the child was again shifted to Sakthi Vidiyal Home, Muthupatti, Madurai, where, she stayed up to 29.11.2015. Thereafter, on the orders of the Chairman of the Child Welfare Committee, on 12.11.2015, the child was admitted to the Government Children Home at Kellys, Chennai from 29.11.2015 onwards.

4. The Assistant Superintendent of Police has further reported that during the course of enquiry, as directed by this Court, the Inspector of Police, by name Mr. Prakash met the child Crystal in the Government Home for Children at Kellys, Chennai and recorded her statement. In her statement, the child has stated that she was not aware of her father and mother. However, on few occasions, she was informed by the Pastor that her native place is Usilampatti. She has further stated that even if anybody claims that they are the father and mother, she is not willing to go with



them and she wants to continue her education by remaining in the same home.

5. From this report, *prima facie*, we are satisfied that the child Crystal may be the 2nd female child born to the petitioner and her husband. But, on that score, we cannot declare that she is the child born to the petitioner and her husband. It needs further confirmation by means of Scientific methods. For that, we direct the 2nd respondent to, during the course of investigation to allow the child, the petitioner and her husband to undergo DNA examination and to submit a DNA report to the Chairman of the District Child Welfare Committee. Thereafter, the District Child Welfare Committee shall consider the claim of the petitioner and her husband for the child, the wishes of the child and after having ascertained the parentage of the child, the Chairman shall pass appropriate orders.

6. We also appreciate the Assistant Superintendent of Police, Mr.Om Prakash Meena for the swift action taken by him and completed the same within the time frame and submit a very detailed report before this Court.

7. With the above directions, the Habeas Corpus Petition is closed.

Sd/-

Assistant Registrar(Records)

/True Copy/

Sub-Assistant Registrar

To

1. THE SUPERINTENDENT OF POLICE
MADURAI RURAL MADURAI DISTRICT.
2. Mr.OM PRAKASH MEENA,
ASSISTANT SUPERINTENDENT OF POLICE,
OOMACHIKULAM SUB DIVISION, MADURAI DISTRICT
3. THE INSPECTOR OF POLICE
USILAMPATTI POLICE STATION MADURAI DISTRICT.
4. CHILD WELFARE COMMITTEE
VIDIYAL SHELTER HOME , NO.21 & 22 KENNET NAGAR ,
MUTHUPATTI MADURAI 625 003.
- 5 THE DISTRICT CHILD WELFARE COMMITTEE, MADURAI
- 6.THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

RR

RL/7C/4P/SKS/RR/15.12.2016

HCP.(MD)No.1531 of 2016