



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.06.2016

CORAM:

THE HON'BLE DR.JUSTICE S.VIMALA

W.P(MD) No.9727 of 2016

S.Venkatesan

... Petitioner

-vs-

1. The Superintendent of Police,
Dindigul District, Dindigul.
2. The Inspector of Police,
Kujiliamparai Police Station,
Kujiliamparai, Dindigul District.
3. The Sub-Inspector of Police,
Koombur Police Station,
Dindigul District.

... Respondents

(R3 suo motu impleaded as per the order of this Court dated 02.06.2016)

Prayer: Writ Petition filed under Article 226 of the Constitution of India for the issuance of Writ of Mandamus, directing the respondents to give adequate police protection for the life and limb of the petitioner and his sister.

For Petitioner : Mr.S.Gokul Raj
For Respondents : Mr.D.Muruganandam,
Addl. Govt. Pleader

O R D E R

"Every 2 seconds a girl becomes a child bride. Stop the clock - end child marriage" - reports international.org/child-marriage.

Pleading to stop the marriage of a child with a bleeding heart, the petitioner has approached this Court. Stating that neither he nor his sister Vijayalakshmi is interested in the marriage of Vijayalakshmi with her uncle's (Nagappan) son Vinoth and that his sister being a child should not be married before she attains marriageable age and therefore, the Police must be directed to provide protection to the life and limb of the petitioner as well as his sister, this petition has been filed by



2. The father of the petitioner by name Sakthivel, on the other hand, has filed a complaint alleging that her daughter Vijayalakshmi is missing from 26.05.2016 and probably one Kumareshan, who had been maintaining acquaintance with Vijayalakshmi, might have abducted her. Based on the complaint, a case has been registered in Crime No.90 of 2016 on 30.05.2016 against Kumaresan and five others.

3. The specific case of the petitioner Venkatesan is that because his father was coercing his sister to marry her uncle's son, she left the father's custody and only in order to cover up his mistake, his father might have lodged the complaint. (woman missing). It is alleged that the petitioner and his sister preferred a complaint to the second respondent, but the second respondent refused to register the case on the ground that already a complaint has been registered against him.

4. As the father was not a party in the writ petition, this Court wanted to hear the father also. Therefore, after *suo motu* impleading the Sub Inspector of Police, Koombur Police Station, Dindigul District as third respondent, the Court directed the Additional Government Pleader to cause the appearance of the father through the third respondent on 03.06.2016.

5. The petitioner / Venkatesan, her sister Vijayalakshmi and their father - Sakthivel were enquired separately as well as jointly in the Chamber and during enquiry the petitioner's sister made it very clear that as she has entertained a strong opinion that her aunt (father's sister) had been responsible for the suicide committed by her mother and therefore, she is not inclined to marry her uncle's son.

6. It is not in dispute that the petitioner's sister is a child as defined under the Prohibition of Child Marriage Act, 2006 (hereinafter referred to as "the Act").

6.1. Under Section 2(a) of the Act, "child" means a person who, if a male, has not completed 21 years of age and if a female, has not completed 18 years of age.

6.2. Under Section 2(f) of the Act "minor" means a person who, under the provisions of Majority Act, 1875 (9 of 1875) is to be deemed not to have attained his majority.

6.3. Under Section 9 of the Act whoever, being a male adult above 18 years of age, contracts a child marriage, he would be punishable with rigorous imprisonment (RI) which may extend to two years or with fine which may extend to one lakh rupees or with both.

6.4. Section 11 of the Act, which deals with punishment for promoting or permitting solemnization of child marriages, reads as follows:

"(1) Where a child contracts a child marriage, any person having charge of the child, whether as parent or guardian or any other person or in any other manner, whether lawful or unlawful, including any member of an organisation or association of persons who does any act to promote the marriage or permits it to be



solemnised, or negligently fails to prevent it from being solemnised, including attending or participating in a child marriage, shall be punishable with rigorous imprisonment which may extend to two years and shall also be liable to fine which may extend upto one lakh rupees:

Provided that no woman shall be punishable with imprisonment.

(2) For the purposes of this section, it shall be presumed, unless and until the contrary is proved, that where a minor child has contracted a marriage, the person having charge of such minor child has negligently failed to prevent the marriage from being solemnised."

7. Child marriage is a violation of children's human rights. Despite being prohibited by international law, and Indian law it continues to rob millions of girls under 18 year of age from the world of their childhood. Early pregnancy is one of the most dangerous causes and consequences of child marriage. When the child itself is the mother, bearing and rearing a child is the biggest challenge.

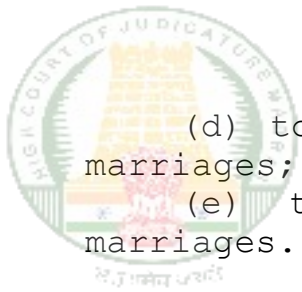
8. Education is essential for girls to be able to make informed decisions about their future. But child marriage forces them out of education and throw them into a life filled more with risk and danger than with a life of peace and joy. The child after marriage faces increased risk of violence, abuse, ill health and even early death.

9. The father, who has not understood these implications of child marriage, has chosen to arrange for the marriage of his daughter. The father of the petitioner appeared before this Court and this Court explained to him the evils of performing a child marriage and that it is not expected of him to conduct the marriage of his daughter till she attains the marriageable age, the father gave an undertaking that he would not perform the marriage of his daughter until she attains the marriageable age. The petitioner and her sister wanted to be in the custody of their mother's sister. The father was willing to take care of the petitioner as well as his sister, but both of them are not inclined to go along with the father.

10. Mr. Natarajan, learned counsel representing the father, submitted that he would file necessary application for guardianship and custody before the concerned Court and would work out the remedy.

11. Recording the undertaking given by the father of the petitioner, this writ petition is closed. If any violation of undertaking is complained of, the 2nd respondent is directed to render necessary protection to the petitioner and his sister.

12. This Court wish to point out that it is the duty of the
Child Protection Officer, as contemplated under Section 16 (3) (d) (e) of the Prohibition of Child Marriage Act, 2006,



(d) to create awareness of the evil which results from child marriages;

(e) to sensitize the community on the issue of child marriages.

No costs.

Sd/-

Assistant Registrar

/TRUE COPY/

Sub Assistant Registrar

To:

1. The Superintendent of Police,
Dindigul District, Dindigul.
2. The Inspector of Police,
Kujiliamparai Police Station,
Kujiliamparai, Dindigul District.
3. The Sub-Inspector of Police,
Koombur Police Station,
Dindigul District.
4. The Additional Government Pleader,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.S.Gokulraj, Advocate in SR.No.27926

+1cc to M/S.THE SPECIAL GOVERNMENT PLEADER, SR NO: 27975

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JA-ARK-PV-05.07.2016/4P-7C

W.P (MD) No.9727 of 2016
03.06.2016