

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.03.2017

CORAM

THE HONOURABLE MR.JUSTICE S.NAGAMUTHU
and
THE HONOURABLE DR.JUSTICE ANITA SUMANTH

H.C.P. No.288 of 2017

TMT. VANITHA

..

Petitioner

vs.

The State rep. By its
The Inspector of Police,
Arumbakkam Police Station,
Arumbakkam, Chennai - 600 106.

..

Respondent

Prayer : Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of habeas corpus directing the respondent to secure and produce the petitioner's daughter namely Ms. Swetha aged about 15 years to produce her before this Court and set her at liberty.

For Petitioner : M/s.M.Thirumalaikumara
For Respondents : Mr. V.M.R. Rajentren
Additional Public Prosecutor

ORDER

[Order of the Court was made by S.NAGAMUTHU, J.]

The petitioner is the mother of one Ms.Swetha, aged 15 years. She is presently doing XI standard in a local school at Arumbakkam. According to the petitioner, Ms.Swetha has been found missing from 05.02.2017 onwards. In this regard, on a complaint made by the petitioner, a case has been registered in Crime No.285/2017 for "girl missing" on the file of the respondent Police and the same is under investigation. Since, the girl has not been secured so far, the petitioner has come up with this Habeas Corpus Petition.

2.Today, when the case was taken up for hearing, the respondent produced the detainee Ms.Swetha. She told us that presently, she is doing XI standard in a local school. She would

further state that she was good in her studies which is evident from the fact she secured 471 marks out of 500 in her X standard Board Exam. She would further state that one Mr. Shyam Sundar was stalking her and she avoided him and when he approached her, she simply rejected him. She further told that she was interested in her further studies. She further told that despite the same, on 05.02.2017, Mr. Shyam Sundar deceived her and took her to his house and from there, she found his father, mother and brother. Thereafter, he took her to various places and kept her in an illegal detention and during such stay, against her wish, he had sexual intercourse with her. The Inspector of Police would state that Mr. Shyam Sundar has been arrested and he has been remanded to judicial custody.

3. The learned Additional Public Prosecutor would submit that the respondent Police is proposed to alter the case into under the Prevention of Children from Sexual Offences Act, 2012 (POCSO Act) also.

4. The investigation is still in progress. The detainee further told that she is interested only in living with her parents and to continue her education. She made it very clear that she was only kidnapped by Mr. Shyam Sundar and thus, she had not given any consent to Mr. Shyam Sundar to have sexual intercourse with her. The said statement is recorded.

5. In view of the above, this Habeas Corpus Petition is disposed of with a direction to the respondent Police to hand over the custody of the detainee to the parents of the detainee and the parents of the detainee are in turn, directed to produce the detainee before the Court under the Prevention of Children from Sexual Offences Act, 2012 (POCSO Act) for further proceedings and also for medical examination.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

jbm
To

1. The Inspector of Police,
Arumbakkam Police Station,
Arumbakkam, Chennai - 600 106.

2.The Public Prosecutor,
High Court, Madras.

+1 cc to Mr.M.Thirumalaikumaran Advocate sr 14753

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