

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.03.2017

CORAM

THE HONOURABLE MR.JUSTICE S.NAGAMUTHU

and

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

H.C.P.No.343 of 2017

M.Sankar

....Petitioner

vs.

1.State Rep. By
Inspector of Police,
Nemili Police Station,
Nemili.

2.A.Bharati

3.Kaliammal

....Respondents

Prayer : Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Habeas Corpus to direct the respondents to produce the body of Miss S.Bharathy aged about 16 years D/o M.Sankar before this Court and set her at liberty.

For Petitioner

..

Mr.V.V.Sairam

For R.1

..

Mr.V.M.R.Rajentren,
Additional Public Prosecutor

ORDER

(The order of the Court was made by **S.NAGAMUTHU.,J**)

The petitioner is the father of one Ms.S.Bharathy, who is hardly aged 16 years. She was studying in XI standard in the Government School at Nemilicherry. She was found missing from 12.02.2017 onwards. In this regard, the petitioner, alleging that the respondents 2 & 3 had kidnapped Ms.S.Bharathy, has made a complaint to the first respondent on 12.02.2017. On the said complaint, a case in Crime No.50/2017 has been registered. Since, the minor girl was not secured by the first respondent, the petitioner is before this Court with this Habeas Corpus Petition.

2.Today, when the Habeas Corpus Petition came up for hearing, the petitioner along with his wife appeared before this Court. The detenue/minor girl was produced before this Court by the first respondent. The detenue admitted that she is aged 16 years and she is studying XI standard in the Government School at Nemilicherry. She further told us that the second respondent aged 25 years had fallen in love with her and she also reciprocated. Out of the said love, it is alleged that the second respondent took her with him and married her on 12.02.2017 itself in a Temple at Pattabiram and kept her in a house as his wife.

3.From the narration of the facts made by the detenue, it is crystal clear that the second respondent has committed offences against the detenue under the Prevention of Children from Sexual Offences Act, 2012 (POCSO Act) also.

4.The first respondent is present before this Court. He would submit that in respect of this case, six persons have been remanded to custody and in fact, the second respondent also secured today. He would further submit that the case would be appropriately altered under the Prevention of Children from Sexual Offences Act, 2012 (POCSO Act) also.

5.When we enquired, the detenue submitted that she would prefer to be in the care and custody of the petitioner and his wife viz., her father and mother. The same is recorded. The petitioner and his wife, who are present in Court also told us that they are willing to keep her in their custody without causing any harm, either physical or mental, to her. The said statement is also recorded. The petitioner and his wife further told us that the second respondent herein is a man of bad character and his antecedents also require thorough investigation.

6.In view of the above, we direct the first respondent to investigate

the entire episode of the matter and act in accordance with law. In the meanwhile, we further direct the first respondent to produce the detainee/minor girl Ms.Bharathy, before the Special Court under the Prevention of Children from Sexual Offences Act, 2012 (POCSO Act), at Vellore, on or before 28.03.2017 and the said Special Court shall pass appropriate orders about the custody of the minor girl after considering the wishes of the minor girl and her parents.

7.In the result, the Habeas Corpus Petition is ordered accordingly.

(S.N.J.,) (A.S.M.J.,)
27.03.2017

Speaking order/Non Speaking order
Index:Yes/No

jbm/sts

Note:- Issue copy on 27.03.2017.

To

1.The Inspector of Police,
Nemili Police Station,
Nemili.

2.The Public Prosecutor,
High Court, Madras.

**S.NAGAMUTHU,J.
And
ANITA SUMANTH,J.**

Jbm/sts

H.C.P.No.343 of 2017

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<http://www.judis.nic.in>**