

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 13.03.2017

CORAM

THE HON'BLE MR.JUSTICE S.NAGAMUTHU

AND

THE HON'BLE DR.JUSTICE ANITA SUMANTH

H.C.P.No.1484 OF 2016

Munusamy

.. Petitioner

vs

1.The Superintendent of Police,
Tiruvannamalai District,

2.The Inspector of Police,
Gingee Police Station,
Gingee.

3.Mr.Jayaseelan
4.Mr.Malaiyappan
5.Mrs.Chandra
6.Mr.Sathyaseelan
7.Mr.Sakthivel
8.Mr.Rajan

9.The Superintendent of Police,
Villupuram District.

.. Respondents

(R9 impleaded vide order of court
dated 18/11/2016 in CRL MP. 11103/2016)

Prayer:- This Habeas Corpus Petition has been filed under Article 226 of the Constitution of India to issue a direction to the respondents 1 to 8 to produce the body of the detainee by name Abitha, D/o Munusamy aged 15 years before this Court.

For Petitioner : Mr.C.R.Malarvannan

For Respondents
1,2 & 9 : Mr.V.M.R.Rajentren,
Additional Public Prosecutor

ORDER

This Habeas Corpus Petition has been filed alleging that the petitioner's daughter, by name, Ms.Abitha, aged 15 years, has been found missing from 08.07.2016 onwards. On a complaint made by the petitioner, who is the father of the detainee, a case has been registered in Cr.No.350/2016 dated 09.07.2016, for offence under Section 366(A) I.P.C., on the file of the second respondent. Despite registration of the case, since, the detainee was not secured, the petitioner is before this Court with this Habeas Corpus Petition.

2.When this Habeas Corpus Petition came up for hearing on 01.03.2016, before this Court, the detainee was produced. She told the Court that there was a friction in the family, due to her conduct. Mr.Munusamy, the father of the detainee admitted that he reprimanded her. This Court also found that it is a fit case where the detainee be given counseling by the experts for which, Ms.P.Rajakumari, the Inspector of Police should take steps. So far as the custody of the detainee is concerned, this Court directed that her custody shall be with her grand mother viz., Mrs.Manga Lakshmi wife of Kannayiram.

3.Today, when this Habeas Corpus Petition was taken up before this Court in the morning session, the learned counsel for the petitioner submitted that the detainee was not handed over to the custody of either the petitioner or Mrs.Manga Lakshmi, the grand mother of the detainee, by the Police, as directed earlier.

4.The respondent Police submitted that after the order was passed by this Court on 01.03.2017, the Criminal Case was investigated and after the detainee was examined, when she was asked to go to her house, she blindly refused to go either with her father or with the grand mother. Instead, she preferred to go the Government Protection Home.

5.In view of the same, according to the respondent police, the detainee has been kept in the Government Protection Home, Kellys, Chennai. In order to ascertain the wishes of the detainee, we directed her to be present before this Court today (13.03.2017) at 3.00 pm. Accordingly, she was produced. When we enquired, she told us that she is hardly aged 16 years. She further told us that she had fallen in love with the third respondent herein and since, it was opposed by her father, she went out on her own accord with the third respondent and stayed along with him at Tirupur and they married in a Temple. After the said marriage, according to her, they lived together as husband and wife at Tirupur and at different places, until she was secured by the respondent Police. She would further submit

that she does not want to go and be in the custody either of her father or any of her relatives including her grand mother, Mrs.Manga Lakshmi. She further submitted that she feels convenient to be in a Government Protection Home at Kellys, Chennai and she expressed her willingness to be there until she completes 18 years of age.

6.In our considered view, this issue, "As to how the question of custody of the minor girl/detenué is to be dealt with", is within the domain of the Special Court under the Protection of Children from Sexual Offences, Act. The respondent has altered the case into the provision of Protection of Children from Sexual Offences, Act 2012 also and the third respondent herein has already been arrested and remanded to custody. At this juncture, it would be appropriate for the respondent Police to produce the detenué before the Protection of Children from Sexual Offences Act, for necessary further orders regarding her custody and other proceedings. Accordingly, the Habeas Corpus Petition is disposed of with a direction to the respondent Police to produce the detenué Ms.Abitha, before the Special Court under the Protection of Children from Sexual Offences Act, at Villupuram on 15.03.2017. Until then, she shall be kept in the Government Home, where from she was produced today.

Sd/-

Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

jbm/jer

To

1.The Superintendent of Police

Thiruvannamalai District

2.The Inspector of Police

Gingee Police Station

Gingee

3.The Superintendent of Police Villupuram District

4.The Officer I/c Government

Protection Home at Kellys, Chennai

5.The Public Prosecutor

High Court Madras

6.The Special Court,
Protection of Children from Sexual Offences Act,
Villupuram

+1 cc to Mr.N.Mohideen Basha Advocate sr 15739

H.C.P.No.1484 of 2016

sks (co)
rmp14/03/2017



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