



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 06.04.2017

CORAM:

**THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
AND**

**THE HONOURABLE MR.JUSTICE P.VELMURUGAN
H.C.P(MD)No.1164 of 2016**

Barakkath Nisha

... Petitioner

Vs.

1.State represented by
The Commissioner of Police,
Madurai City,
Madurai.

2.State represented by
The Inspector of Police,
Jaihindupuram Police Station,
Madurai City,
Madurai.

3.S.Mohamed Ansari

4.The Inspector of Police,
Karimedu Police Station,
Madurai District.

**(The fourth respondent is impleaded suo motu
as per the order of this Court made in H.C.P
(MD)No.1164 of 2016 dated 31.08.2016.)**

5.Selvi

6.J.J.Y.Arul

... Respondents

**(The respondents 5 and 6 are impleaded suo
motu as per the order of this Court made in
H.C.P(MD)No.1164 of 2016 dated 11.11.2016)**

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus directing the respondents to produce the person or body of the petitioner's daughter Taslima @ Hasina, aged 7 years, before this Court and hand over her to the petitioner.

For Petitioner : Mr.D.Anbarasu

For Respondents: Mr.C.Ramesh,

Additional Public Prosecutor for R.1, R.2 & R.4

Mr.M.Jagadeesa Pandian for R.3

Mrs.P.Jessi Jeeva Priya for R.6



No appearance for R.5

ORDER

(Order of the Court was made by **T.S.SIVAGNANAM, J.**)

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This petition has been filed by the father of the detenu, who is a minor girl, aged about 7 years.

2. The consistent case of the petitioner is that she had handed over the minor girl to her father-in-law, Sheik Maideen, who is the father of the third respondent. As of now, the said Sheik Maideen is no more. The minor girl is said to have been handed over to ABODE Precious Children Home at Madurai and admittedly, this happened in the year 2011. The petitioner did not take any steps to trace the minor child nor she contacted her father-in-law. The third respondent is the son of the said Sheik Maideen and husband of the petitioner.

3. This petition has been pending since 2015 and various orders have been passed from time to time, however, in spite of the best efforts taken by the respondent police, they are unable to trace the minor child. Earlier, the petitioner stated that she was able to identify the child and she had identified three children, stating that one of the three children is her daughter. Therefore, the Investigating Agency proceeded to get DNA Test done for the three children.

4. Today, the learned Additional Public Prosecutor appearing for the respondents 1, 2 and 4, on instructions, reports that the blood samples did not match with that of the petitioner. Thus, the entire investigation has come to a roadblock. In our considered opinion, the cause of all these issues is largely attributed to petitioner as she took no steps after 2011 and the first attempt was made in 2015.

5. We do not find anything wrong with the manner in which the investigation has been conducted by the respondent police. The petitioner's further case is that the minor child was handed over from ABODE Precious Children Home to the sixth respondent, which is also a Home called 'Love and Care'. However, this submission is not supported by any credible information. Thus, we find no justifiable reason to keep this petition pending any longer.

6. Considering the fact that the detenu is a minor girl, probably aged about 10 years as of now, we are of the view that the investigation should be conducted by some other organisation which would have sufficient jurisdiction to conduct the investigation in all States and if necessary, in other States or in other countries as well.



7. Therefore, we direct the respondent police to place the entire papers relating to this case before the C.B.C.I.D., and an efficient Officer of the C.B.C.I.D., shall be nominated as Investigating Officer, who shall proceed with the investigation in a diligent manner, so that, the detenu is secured.

8. With the above direction, this Habeas Corpus Petition is disposed of.

Sd/-

Assistant Registrar (CS-I)

/True copy/

Sub Assistant Registrar

To

1.The Commissioner of Police,
Madurai City,
Madurai.

2.The Inspector of Police,
Jaihindupuram Police Station,
Madurai City,
Madurai.

3.The Inspector of Police,
Karimedu Police Station,
Madurai District.

4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Copy To:

The Special Officer,
C.B.C.I.D, Chennai.

+1 cc to Mr.D.Anbarasu, Advocate, Sr.No.50867

RSB

PSM/MR/SAR3/21.04.2017/3P/7C

H.C.P (MD) No.1164 of 2016
06.04.2017