



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.08.2017

CORAM:

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P. (MD) No.15640 of 2017

M.Mahalakshmi

... Petitioner

Vs.

1.The District Child Protection Officer,
District Social Welfare Office,
Virudhunagar District,
Virudhunagar.

2.The President / Adviser,
Virutcham Magalir Munnettra Kalzangiam (Home),
No.7/13, Shanmugampillai Street,
West Car Street (Near Lysandar Hospital),
Virudhunagar.

3.The Inspector of Police,
Watrap Police Station,
Virudhunagar District,
Virudhunagar.
(In Crime No.143 of 2017)

4.The Inspector of Police,
All Women Police Station,
Srivilliputhur,
Virudhunagar District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the first respondent in Letter No.756/DCPU/2017, dated 20.07.2017 and quash the same as illegal and consequently direct the first and second respondents to hand over the custody of the petitioner's minor daughter namely Sowri, D/o.Muthramalingam, aged about 17 years along with new born girl baby.

For Petitioner	: Mr.M.Jegadeesh Pandian
For Respondents	: Mr.A.K.Baskarapandian
	Special Government Pleader.

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O R D E R

This Writ Petition is filed challenging the order passed by



the first respondent vide letter dated 20.07.2017 and consequently, to direct the first and second respondent to hand over the custody of the petitioner's minor daughter aged about 17 years.

2. The petitioner states that she is the mother of the minor girl by name Sowri. It is the case of the petitioner that the petitioner's younger daughter by name Sowri left the house and did not return home on 12.04.2017. The petitioner further stated that the whereabouts of her daughter was not known and that therefore, she lodged a complaint before the third respondent police on 13.07.2017 which was registered as a girl missing case in Crime No.143 of 2017. Though the third respondent police secured the petitioner's minor daughter on 14.04.2017, the petitioner states that her daughter was exploited sexually by a person called Murthy, son of Kaliappan and that she was pregnant. It was further stated that the petitioner's daughter also gave birth to a female child on 04.07.2017 and that the petitioner's daughter and the girl baby were under the custody of the second respondent, President / Adviser, Virutcham Magalir Munnettra Kalzangiam (Home) which is specially meant for destitute women. The petitioner further states that she approached the District Collector and requested the authorities to hand over the custody of her minor daughter. Since the representation of the petitioner was not considered by any of the respondents and the first respondent passed the order refusing to hand over the minor daughter, the petitioner states that she was constrained to file the present Writ Petition.

3. The impugned order passed by the first respondent clearly states that the petitioner's daughter along with her child was under the custody of the second respondent. However, since the case under Protection of Child From Sexual Offences Act, 2012, is pending, the first respondent has directed the petitioner to approach the Mahila Court in which the criminal case is pending.

4. The learned Special Government Pleader appearing for the respondents, however, explains the facts by stating that the minor girl refused to go with the petitioner, as she on her own went with one Murthy. In view of the fact that the petitioner's daughter was minor at the time of incident and a case was registered for serious offences, the petitioner cannot be given custody against the will of the petitioner's daughter. Since the petitioner states that the petitioner's daughter, after giving birth to a female child, is willing to go with the petitioner, this Court is inclined to direct the petitioner to approach the Child Welfare Committee, Virudhunagar with whom the custody of the minor daughter lies and the Child Welfare Committee, Virudhunagar consider the request of the petitioner and pass appropriate order as expeditiously as possible.



5. With the above observation and direction, this Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar (AD-II)

/True Copy/

Sub Assistant Registrar

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To

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Virudhunagar District, Virudhunagar.
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Virudhunagar.
4. The Inspector of Police,
All Women Police Station,
Srivilliputhur, Virudhunagar District.

+1cc to M/S.M.JEGADEESH PANIDAN, Advocate SR.No.74452

+1cc to Special Government Pleader, SR.No. 74587

SRM

MAS/SV-MMS/SAR2:04.09.2017:3P-7C

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