

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 29.06.2018

CORAM

THE HONOURABLE DR. JUSTICE S.VIMALA
AND
THE HONOURABLE MRS. JUSTICE S.RAMATHILAGAM

H.C.P.No.1246 of 2018

M.Vetrivel

.. Petitioner

- Vs -

State Rep. by

1. The Commissioner of Police,
Greater Chennai City,
No.132, EVK Sampath Road,
Vepery, Chennai - 600 007.

2. The Inspector of Police,
St. Thomas Mount Police Station,
Railway Station Road, Alandur,
Chennai - 16.

.. Respondents

Petition filed for the issuance of a writ of habeas corpus directing the respondents to physically bring the body of the petitioner's friend Chris Rivaldo, aged about 17 years 9 months before this Court and set him at liberty.

For Petitioner : Mr.M.Sunil Raja

For Respondents: Mr. R.Prathap Kumar, APP

ORDER

(DELIVERED BY DR. S.VIMALA, J.)

This Habeas Corpus Petition has been filed by the next friend of the detenu, seeking direction to the respondents to release the detenu, by name, Chris Rivaldo, aged about 17 years and 9 months.

2. It is alleged that originally the detenu was residing with his father Victor @ Ravi Victor and mother Mahalekshmi; one year back, his father and mother got separated and thereafter, each of them remarried deserting the detenu. Now, the detenu is alleged to be residing with the petitioner herein.

3. As per the averments made in this petition, St.Thomas Mount Police, has registered a case against the detenu under Section 379 I.P.C., in Crime No.154 of 2018, based on that, the

detenu has been remanded to the custody and he is confined in Central Prison, Puzhal, Chennai.

4. The case of the petitioner is that according to the Birth Certificate of the detenu, the date of birth of the detenu is 24.08.2000; actually his status is minor, on the date of production of the detenu before the learned Magistrate.

5. It is fairly conceded by the learned counsel for the petitioner that the learned Magistrate is in additional charge having unbearable load of work and therefore, there was no time to file the birth certificate. For want of proof, perhaps the detenu might have been remanded to judicial custody. However, the fact remains that he is a juvenile in conflict with law and therefore, the law requires that the detenu ought to have been produced only before the Juvenile Justice Board.

6. If he had been produced before the Juvenile Justice Board, he is entitled to mandatory bail under Section 12 of the Juvenile Justice (Care and Protection) Act. So contending, now, this Habeas Corpus Petition has been filed alleging the custody as illegal and he is entitled to care and protection under the said Act. The detention of the detenu in prison would certainly amount to illegal custody and therefore, he must be ordered to be released from the illegal custody forthwith.

7. The detenu being the Juvenile is entitled to protection under the same Act and his case must be dealt with under the provisions of the same Act by the Juvenile Justice Board. As he has been in custody for a period of 17 days, we deem it appropriate to release him forthwith by granting Interim Bail by taking the affidavit of the petitioner and with a further direction to the detenu to appear before the Juvenile Justice Board, Chengalpet, positively and the petitioner shall take the responsibility of producing the juvenile before the Juvenile Justice Board, Chengalpet, on the next date of hearing, i.e. on 02.07.2018, at 10.00 a.m. The second respondent shall forthwith transmit all the documents relating to Cr.No.154 of 2018 to the Juvenile Justice Board, Chengalpet.

A copy of this order shall be communicated by fax to the second respondent.

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

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

ogy/IA

To

1. The Commissioner of Police,
Greater Chennai City,
No.132, EVK Sampath Road,
Vepery, Chennai - 600 007.
2. The Inspector of Police,
St. Thomas Mount Police Station,
Railway Station Road, Alandur,
Chennai - 16. (BY FAX)
3. The Superintendent of Police,
Central Prison, Puzhal, Chennai.

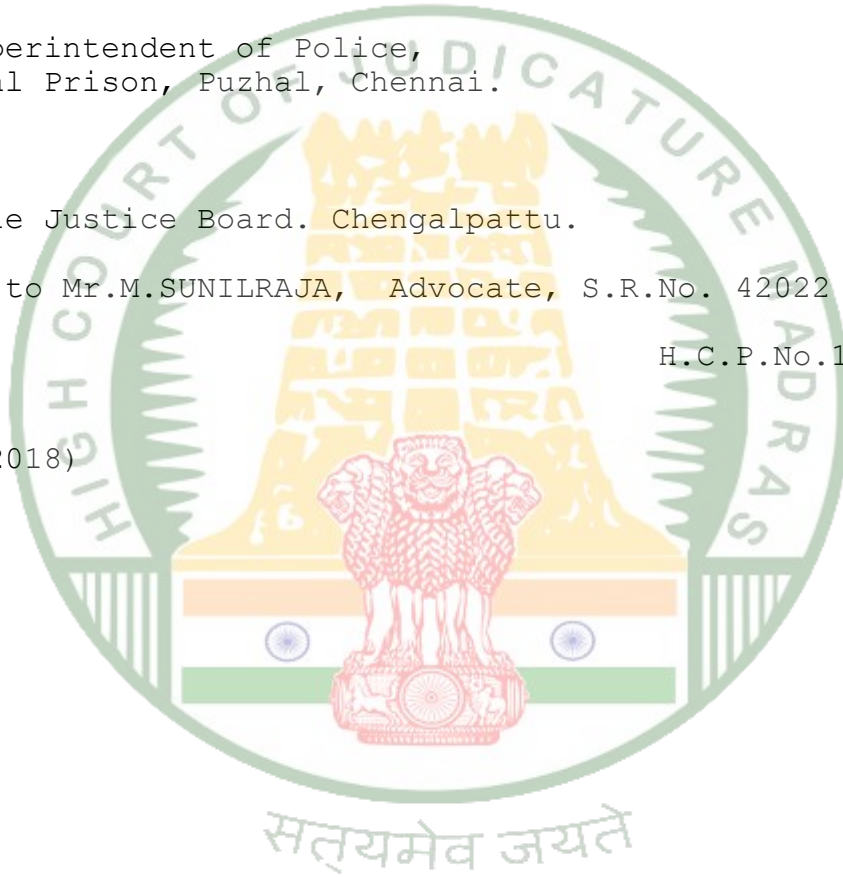
COPY TO

1. Juvenile Justice Board. Chengalpattu.

+2cc to Mr.M.SUNILRAJA, Advocate, S.R.No. 42022

H.C.P.No.1246 of 2018

MG(CO)
TR(29/06/2018)



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