

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.07.2018

CORAM

THE HON'BLE DR.JUSTICE S.VIMALA
AND
THE HON'BLE MRS.JUSTICE S.RAMATHILAGAM

Habeas Corpus Petition No.1424 of 2018

Mrs.Ravanamma .. Petitioner
/ Mother of the detenu

Versus

1. The Superintendent,
Government Girls Children Home,
No.300 Purasaiwalkam High Road,
Purasaiwalkam, Chennai
 2. The Inspector of Police,
Kanathur Police Station,
Muttukadu, Kancheepuram District
- Respondents

Petition filed under Article 226 of the Constitution of India, seeking for a Writ of Habeas Corpus, directing the respondents to produce the person and body of the petitioner's minor daughter, namely, Ramya, Female, aged about 15 years, D/o.Rajeshkumar, before this Court and hand over to the petitioner.

For Petitioner : Mr. S.Senthilvel
For Respondents : Mr.R.Prathap Kumar, APP.

ORDER

(Order of the Court was made by S.VIMALA,J.,)

Habeas Corpus Petition No.449 of 2018 filed by the petitioner herein, namely, Ravanamma, has been dismissed by this Court, by the order, dated 23.04.2018 with the finding that the petitioner, not being the biological mother, has no locus standi to file the said HCP. Despite the dismissal of the earlier petition, the present Habeas Corpus Petition No.1424 of 2018 has been filed. In the present Habeas Corpus Petition, the dismissal of the erstwhile HCP No.449 of 2018 has not been suppressed and in paragraphs 8 and 9 of the affidavit filed in support of this petition, the details of the same have been furnished.

2. It is the case of the petitioner herein that she adopted the victim girl, Ramya, when the victim girl was

three months old and victim girl was in continuous custody and protection of the petitioner, all along, and despite best protection afforded to the child by her, because of some alleged mis-happenings, the child came to the custody of the Child Welfare Committee and from there, she was sent to the custody of the first respondent / Home.

3. The first respondent / Home, represented by its Superintendent, Mrs.M.Ponnarasi, is present, in-person, before this Court, today. We have enquired the Superintendent and she would state that the behaviour and education of the victim girl in the school as well as in the Home are very good and that the victim girl is a law abiding citizen.

4. The mother, who is present before this Court, would state that she is willing to relinquish the company of Rajeshkumar, if that would be an impediment for custody of the child being given to her. However, we are not inclined to state anything with regard to her relationship with Rajeshkumar. Our paramount interest is to protect the interest and wellbeing of the victim girl alone.

5. Hence, we thought it fit to direct the Probationary Officer of the concerned jurisdiction to supervise and to file a report, once in a month, after enquiring the minor girl, with regard to her wellbeing in her house. An Aadhar card bearing No.2691 0217 9503 has been produced to show that the petitioner herein, Ravanamma, is known as 'Ravanamma Rajeshkumar', Rajeshkumar, being the husband of the petitioner herein. Yet another Aadhar card bearing No.6398 4011 4620 has been produced to show that the victim girl, Ramya, is known as the daughter of Rajeshkumar.

6. A comparative perusal of all the records would go to show that the victim girl, Ramya, has been treated as the child of the family, belonging to Rajeshkumar and Ravanamma.

7. At this juncture, it is pertinent to point out that the Juvenile Justice Act promises and in fact, facilitates the adoption of the orphan, abandoned and surrendered children. It is claimed by the petitioner herein that she has adopted the victim girl when the child was three months old. However, from the perusal of the earlier order, it appears that this factor has not been brought to the knowledge of the earlier Bench. Had it been brought to the knowledge of the earlier Bench that the victim girl is an adoptive daughter of the petitioner, Ravanamma, the earlier Bench would not have chosen to dismiss the petition.

8. Under such circumstances, we are of the view that the earlier order passed by this Court in HCP No.449 of 2018 would not amount to resjudicata as the relative factors were not placed before the earlier Bench. However, towards safeguarding the interest of the victim girl, we thought it appropriate to impose some suitable conditions before granting custody to the petitioner.

9. Hence, in view of the foregoing discussion, this Habeas Corpus Petition is disposed of, with the following directions:-

(i) The custody of the minor girl, Ramya, shall be handed to the petitioner, forthwith.

(ii) The Probationary Officer, Child Welfare Committee, Chennai, shall cause surprise visit(s) to the house of the victim girl and file a report before the Child Welfare Committee.

(iii) However, in future, if the Probationary Officer's report discloses that the welfare of the minor girl remains unprotected, this order is liable to be cancelled and the Child Welfare Committee shall take further steps with regard to the interest and wellbeing of the victim girl.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

srk

To:

1. The Superintendent, Government Girls Children Home,
No.300 Purasaiwalkam High Road, Purasaiwalkam,
Chennai

2. The Inspector of Police, Kanathur Police Station,
Muttukadu, Kancheepuram District

3. The Probationary Officer, Child Welfare Committee,
Chennai.

4. The Public Prosecutor, High Court, Madras

+1 CC TO MR.SENTHIL VEL Advocate 49808

H.C.P.No.1424 of 2018

SV(CO)

ASK(16/08/2018)

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