

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 27.06.2018

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

H.C.P.No.2082 of 2017

K.Pitchandi

... Petitioner

versus

1. The Superintendent of Police,
O/o. The Superintendent of Police,
Vellore District.

2. The Inspector of Police,
O/o. K.V.Kuppam Police Station,
Vellore District.

3. Hariprasad

... Respondents

Habeas Corpus Petition filed under Article 226 of Constitution of India praying for the issuance of Writ of Habeas Corpus, to direct the respondents to produce the petitioner's daughter Aarthi, aged about 17 years, before this Court and set her at liberty.

For Petitioner : Mr.G.Prabhu

For R1 and R2 : Mr.R.Prathap Kumar
Additional Public Prosecutor

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

This Habeas Corpus Petition has been filed by the father of the detainee, seeking a direction to the respondents to produce his daughter Aarthi, aged about 17 years, before this Court.

2. It is submitted by the learned Additional Public Prosecutor that this is not the first occasion that the petitioner has come before this Court. Even earlier, the petitioner filed similar petition and on the order of this Court, detainee was secured and a case was registered against the 3rd respondent Hari Prasad under Section 366 A, 376 IPC, Sections 4, 8 and 12 of POCSO Act r/w. Section 3(1) (r), 3(1)(s), 3(1)(w), prevention of SC/ST Amendment of Ordinance 1/2016.

3. It is also stated that the petitioner, who is the father of the detainee had also given a statement before the Police.

From the said statement, it is evident that the accused has been arrested by the Police and has been in confinement for more than two months and even thereafter, it appears that the relationship between the detainee and the 3rd respondent continued. In continuance of the relationship, the detainee has eloped once again with the 3rd respondent on 23.10.2017. It is further submitted that the detainee spoke with her parents through video call stating that she wanted to continue to live with the 3rd respondent and therefore, informed her parents not to search for her.

4. The detainee is stated to be a minor girl even now. The FIR was initially registered in the year 2016 and once again in the year 2017, a similar FIR has been registered. Once custody has been restored to the parents, it is the duty of the parents to be careful and see to it that their daughter is safe and secure in their custody. When the minor girl is determined that she wants to live only with the 3rd respondent and is not willing to go with her parents, this Court is of the considered view that it is not possible to change her mindset, by exercising force, and it can be done only by persuasion.

5. Further, the fact remains that a case under POCSO Act has already been registered against the 3rd respondent, based on the complaint of the parents. In such circumstances, it is open to the first and second respondents to proceed further in accordance with law. If the 1st and 2nd respondents are able to secure the detainee during investigation, they shall intimate the same to the petitioner/the father of the detainee.

6. With the above observation, this Habeas Corpus Petition is closed.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

ogy

To

1. The Superintendent of Police,
O/o. The Superintendent of Police,
Vellore District.
2. The Inspector of Police,
O/o. K.V.Kuppam Police Station,
Vellore District.

H.C.P.No.2082 of 2017

CP(CO)

rrs 03/10/2018