

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 03.12.2018

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH
W.P.No.6340 of 2017
and
WMP No.6874 of 2017

M.Anbuchelvan

...Petitioner

.Vs.

1.The Superintendent of Police,
Anti-human trafficking Unit of CBCID,
SIDCO Electronic Complex,
Special Units,
Block No.3,
1st and 3rd Floor,
Guindy Industrial Estate,
Chennai-600 032.

2.The Deputy Superintendent of Police,
Anti-human trafficking Unit of CBCID,
SIDCO Electronic Complex,
Special Units,
Block No.3,
1st and 3rd Floor,
Guindy Industrial Estate,
Chennai-600 032.

3.The District Collector,
Coimbatore District,
Coimbatore,

4.The Superintendent of Police,
Coimbatore District,
Coimbatore.

5.The Inspector of Police,
Kinathu Kadavu Police Station,
Kinathu Kadavu,
Coimbatore District.

6.The Inspector of Police,
Pollachi town Police Station,
Pollachi,
Coimbatore District.

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- 7.The Secretary,
"Saranalayam"
"A Home for the Children of God",
"THIRDEYE",
Soolakkal Road,
Singarampalayam,
Kinathu Kadavu,
Coimbatore District.
- 8.Poongodi,
Working as Assistant,
at "Saranalayam"
"A Home for the Children of God",
"THIRDEYE",
Soolakkal Road,
Singarampalayam,
Kinathu Kadavu,
Coimbatore District.
- 9.Muthulakshmi,
D/o.Sermalai,
C/o.The Secretary,
"Saranalayam"
"A Home for the Children of God",
"THIRDEYE",
Soolakkal Road,
Singarampalayam,
Kinathu Kadavu,
Coimbatore District.
- 10.The State of Tamil Nadu,
Rep. by its Secretary to Government,
Social Welfare and Nutritious Meal
Programme Department,
Fort St.George, Chennai-9.
- 11.The District Child Protection Officer,
District Child Protection Unit,
Mettupalayam Road, Saibaba Kovil,
Coimbatore-43.
- 12.The Chair Person,
Tamil Nadu Commission for Protection of Child Rights,
EVR Periyar Salai, No.183/1, Poonthamallee High Road,
Taylors Road, Kilpauk, Chennai-600 010.

13.The Chairman,
Juvenile Justice Board,
Observation Home for Boys and Girls under
Discharged Prisoner's Aid Society,
No.1093, 1094, Avinashi Road,
Pappanaickenpalayam, Coimbatore-641 037.

14.The Chairman,
Child Welfare Committee,
Children Home for Boys and Girls under Donbosco Anbu Illam,
Social Service Society,
No.38, G.M.Nagar, Post Box No.408,
Ukkadam, Coimbatore-641 1001.

15.The Chief Judicial Magistrate cum Authorized Officer,
Juvenile Justice Board,
Coimbatore, Coimbatore District.

...Respondents

[R-10 to R-15 are impleaded as per order
dated 03.04.2017 in WMP No.7911 of 2017
in WP.No.6340 of 2017].

PRAYER: Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Mandamus, directing the 3rd respondent herein to conduct appropriate detailed enquiry against the 7th respondent with regard to the nature and manner of irregularities committed in the admission of the 9th respondent and to furnish a copy of such enquiry report to the petitioner by considering the representation of the petitioner dated 27.02.2017 and 28.02.2017.

For Petitioner : Mr.T.C.S.Raja Chockalingam

For Respondents : Mr.M.Mohamed Riyaz
for R 1 to R6
Add. Public Prosecutor

Mr.D.Ravichander for R7 & 8

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ORDER

This writ petition has been filed for issuance of Writ of Mandamus directing the 3rd respondent to conduct a detailed enquiry on the alleged irregularities committed in the admission of a minor girl to a home called "Saranalayam" "A home for the Children of God".

2.The learned counsel for the petitioner would submit that the 9th respondent viz; Muthulakshmi, daughter of Sermalai was missing on 10.06.2014. The mother of the girl gave a Complaint before the Kannivadi Police Station on 12.06.2014, and a girl missing FIR was registered in Cr.No.109 of 2014. Thereafter the father of the 9th respondent filed a Habeas Corpus Petition before this Court in H.C.P.(MD)No.1236 of 2014. When the H.C.P was pending, the Division Bench of this Court transferred the investigation from the file of the Inspector of Police, Kannivadi Police Station to an other Officer not below the rank of D.S.P. In spite of the order passed by this Court, the Inspector of Police of the Kannivadi Police Station continued to harass the petitioner and his family members on the guise of investigating the girl missing case in Cr.No.109 of 2014. The further case of the petitioner is that the petitioner was directed to be present before the Kannivadi Police Station on 09.10.2015, and he was called over the phone and the same is reflected in the call details filed before this Court. Thereafter a false Complaint was given against the petitioner by the Inspector of Police, Kannivadi Police Station in Cr.No.364 of 2015 for an alleged offence under Section 294(b), 341, 332, 353 and 506 (ii) of IPC. The petitioner was also confined in the Police Station till mid night. Thereafter, the petitioner was produced before the Judicial Magistrate of Dindigul on 10.10.2015. Subsequently, the FIR in Cr.No.364 of 2015 was altered by adding an offence under Section 307 of IPC. The petitioner thereafter came out on bail.

3.The learned counsel for the petitioner also brought to the notice of this Court the FIR registered against the concerned Inspector of Kannivadi Police Station in Cr.No.2 of 2017, which is pending on the file of the Directorate of Vigilance and Anti Corruption, Dindigul for an offence under Section 7, 13(ii) r/w Section 13(1)(d) of the Prevention of Corruption Act. This Complaint was given on the ground that the concerned Inspector of Police was demanding money. From the petitioner pending the investigation in Crime No.109/2014. The case was investigated and a Final Report was also filed. The said Final Report came to be challenged before this Court in Crl.O.P (MD).No.7632 of 2017, and this Court by an order dated 13.07.2017 was pleased to dismiss the Criminal Original Petition. Therefore, the proceedings as against the Inspector of Police of the Kannivadi Police Station is proceeding further in accordance with law.

4.The learned counsel for the petitioner also submitted that the petitioner has also challenged the FIR and the Final Report filed against him in two crime numbers registered against him and the same is pending before the High Court, Madurai Bench.

5.The learned counsel for the petitioner also brought to the notice of the Court the order passed by this Court on 14.02.2017, wherein this Court had directed the detenu viz; the 9th respondent to be brought before this Court in the pending HCP. The respondent Police also brought the 9th respondent before the Court.

6.It will be relevant to extract the order passed by this Court dated 14.02.2017, in this regard.

"3.Since the matter has been pending for the past two years without any progress, this Court gave a direction on 14.12.2016 by suo motu impleading the Superintendent of Police, Anti-human trafficking unit of CBCID, as one of the respondents to trace out the detenu.

4.While so, when the matter is taken up for hearing today, the Deputy Superintendent of Police, CB CID appeared in person and produced the detenu by securing her from a Home, by name, Saranalayam, Kneethukadavu, Coimbatore.

5.When we enquired the detenu, she said that since she was not interested in studies, she left the home voluntarily and when she was standing in the Pollachi Police Station, she was taken to the afore-said Home. She further said that she has been in the afore-said Home for the past two years and taking care of the orphans and age-old people. She also said that for attaining majority, another four more months are left. However, she assertively said that she is not interested in going with her parents who are present before us. Along with the detenu, one Poogudi, as assistant from the said Home also appeared before us. She said that she will take care of the detenu. Eventually, on our enquiry, it is revealed that the detenu would like to go to only to Saranalayam, Kneethukadavu, Coimbatore.

6.In view of the afore-said statement made by the detenu and she is not in illegal custody as alleged by the respondents and she expressed her willingness to go to Saranalayam, Kneethukadavu, Coimbatore. We are of the opinion, no more adjudication is necessary in this Habeas Corpus Petition and accordingly, we close this Habeas Corpus Petition".

7.By pointing out to the above order, the learned counsel for the petitioner would submit that the 9th respondent had given a categorical statement before this Court that she left her home on her own and she is living in the Saranalayam on her own volition. This itself will make it clear that the petitioner is no way involved in the FIR that has been registered against him in the girl missing case.

8.The learned counsel for the petitioner also brought to the notice of this Court the report that has been filed by the 12th respondent viz; The Chair

Person, Tamil Nadu Commission for Protection of Child Rights. This report was filed pursuant to the directions given by this Court. The learned counsel read the entire report and impressed upon this Court to take into consideration the irregularities committed by the Police, and also the fact that there was nothing in the report to show the involvement of this petitioner in the girl missing case.

9.The learned counsel for the petitioner would submit that even though the writ petition was filed for the limited relief of conducting an enquiry into the manner in which the 9th respondent was admitted in the Saranalayam, the petitioner was impelled to bring to the notice of the Court the relevant facts, only to show that the petitioner was in noway involved in the girl missing case and he has been unnecessarily roped in the case and has been harassed by the Inspector of Police of Kannivadi Police Station.

10.This Court has taken into consideration the submissions made by the learned counsel by the petitioner and the materials placed on record. In view of the report filed by the 12th respondent, the relief as sought for in this writ petition stands fulfilled. This Court cannot give any specific finding on the involvement of this petitioner in the girl missing case and the records speak for itself. That apart, the petitioner has independently challenged the FIR before the High Court, Madurai Bench, and the petitioner has work out his remedy before the concerned Court.

11.The report filed by the 12th respondent is taken on file and it is made part of this order. The writ petition is disposed of with a direction to the petitioner to work out his remedy before the concerned Court where the petitioner has challenged the FIR and the Final Report filed against him.

Accordingly, the writ petition is disposed of. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

KP

To

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1st and 3rd Floor,
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Chennai-600 032.

2.The Deputy Superintendent of Police,
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3.The District Collector,
Coimbatore District,
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4.The Superintendent of Police,
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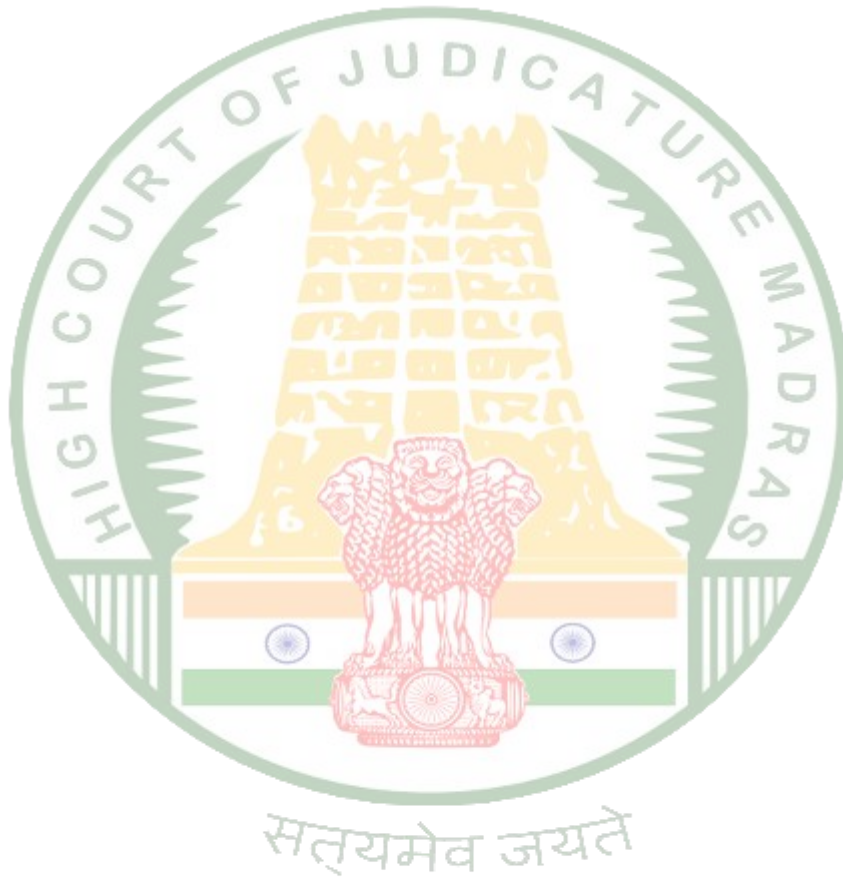
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13. The Chief Judicial Magistrate cum Authorized Officer,
Juvenile Justice Board,
Coimbatore, Coimbatore District.
14. The Section Officer, (to comply the office Note)
CD Section,
High Court, Madras- 600 104

+1cc to Mr.D.Ravichander, Advocate, S.R.No.83040
+2ccs to Mr.T.C.S.Rajachockalingam, Advocate, S.R.No.82521

W.P.No.6340 of 2017

EV (CO)

rrs 10/12/2018



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