



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.03.2018

CORAM:

THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN

AND

THE HONOURABLE MRS. JUSTICE R. HEMALATHA

H.C.P. (MD) No. 272 of 2018

T.Arumugam

... Petitioner

Vs.

State represented by

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

2. The Inspector of Police,
Seetharppanallur Police Station,
Tirunelveli District.

3. Sharmila

... Respondents

PRAYER: Habeas Corpus Petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Habeas Corpus directing the respondents 1 and 2 to produce the person or body of the petitioner's son namely Esakkimuthu @ Ganesan (aged 20 years), son of the petitioner viz., T.Arumugam, before this Court and set him at liberty.

For Petitioner : Mr.D.Anbarasu

For R1 & R2 : Mr.S.Chandrasekar

Additional Public Prosecutor

O R D E R

[Order of the Court was made by M. SATHYANARAYANAN, J.]

The petitioner is the father of the detenu viz., Esakkimuthu @ Ganesan, who was born on 30.05.1997. According to the petitioner, his son / detenu was studying first year Polytechnic Course and he has eloped with the third respondent, on 28.01.2018. According to the petitioner, the third respondent is aged about 24 years, whereas the detenu is less than 21 years and as such, no marriage in the eye of law, can be solemnised. The petitioner in this regard has also given a complaint to the second respondent, based on which, only community service register receipt alone has been given and no F.I.R. has been registered and since his son yet to be traced, came forward to file this Habeas Corpus Petition.



2. The matter is listed today for admission and it is represented that the detenu has already been secured and therefore, the matter is passed over and called in the afternoon. The detenu was produced before the Court by the second respondent. This Court has also enquired and he would state that he was born on 30.05.1997 and developed love affair with the third respondent and also informed his parents and since they have not agreed for marriage, both of them went to Pollachi and married in Vinayagar Temple and started their life as husband and wife and he do not want to go with his parents. The third respondent is also present and she was also enquired and she was born on 06.04.1996 and she developed love affair with the detenu and since the parents of the detenu were not willing to solemnise marriage, both of them had left and got married.

3. The learned counsel for the petitioner would submit that since the detenu is aged less than 21 years, no marriage can be solemnised. However, it is to be pointed out at this juncture that even by applying the provisions of the Child Marriage Restraint Act to the said marriage, it is only voidable and now the detenu is aged about 21 years, would state that he is willing to live with his wife viz., the third respondent and not willing to go with his parents.

4. In the light of the same, no orders for handing over the custody of the detenu would be passed. Accordingly, the Habeas Corpus Petition is dismissed.

Sd/-

Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar

To

1. The Superintendent of Police,
O/o. The Superintendent of Police,
Tirunelveli District.
2. The Inspector of Police,
Seetharppanallur Police Station,
Tirunelveli District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High court,
Madurai.

AKV

VB/SV/MMS/SAR2/28.03.2018/2P/4C