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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Order Reserved on :05.03.2018

Order Pronounced on :19.03.2018

CORAM

THE HON'BLE MR.JUSTICE P.RAJAMANICKAM

W.P(MD) No.4181 of 2018

Manimegala

... Petitioner

-Vs-

1.The Superintendent of Police,
Kanyakumari District,
Nagercoil.

2.The Deputy Superintendent of Police,
Kanyakumari Division, Kanyakumari.

3.The Inspector of Police,
Rajakkamangalam Police Station,
Kanyakumari District.
(Cr.No.11/2018)

4.Saranalayam (Child Home)
Balabagya Nagar South,
Tirunelveli Town,
Tirunelveli.

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India praying to issue writ of mandamus directing the respondents 1 to 3 to give the custody of petitioner's daughter viz., Manju (victim) to the petitioner, who is now in the 4th respondent home till the pending enquiry/investigation of FIR in Cr.No.11/2018, on the file of the 3rd respondent Police or in-alternatively her daughter's viz., Manju's (victim) custody may be given to the college viz., Sakthi Nursing Home, Ottanchathiram, Dindigul District within the time stipulated by this Court.

For Petitioner

: Mr.P.M.Vishnuvarthanan

For Respondents 1 to 3

: Mr.N.Shanmuga Selvam

Addl. Govt. Pleader

O R D E R

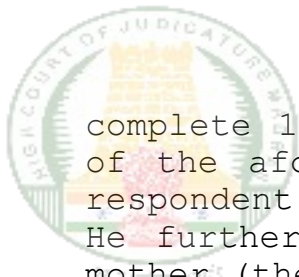
WEB COPY This writ petition has been filed to direct the respondents 1 to 3 to give the custody of petitioner's daughter viz., Manju/victim to the petitioner, who is now in the 4th respondent's home, pending investigation of the FIR in Cr.No.11/2018, on the file of the 3rd respondent Police or in-alternatively the custody of the said Manju may be given to the college viz., Sakthi Nursing Home, Ottanchathiram, Dindigul District.

2.Heard the learned counsel for the petitioner and the learned Additional Government Pleader appearing for the respondents 1 to 3.

3.The learned counsel for the petitioner has submitted that the petitioner's daughter namely Manju is aged about 17 and she is studying in Sakthi Nursing Home, Ottanchathiram, Dindigul District, which is a three years Nursing Course. The petitioner has paid huge amount as tuition fee for her daughter's studies. On 16.01.2018, the said Manju was kidnapped by four known persons and her modesty was outraged and hence, a case was registered in Cr.No.11 of 2017 on the file of the third respondent under Section 366(A) I.P.C and subsequently, it was altered to Sections 366(A) I.P.C and Sections 4 and 12 of POCSO Act.

4.The learned counsel appearing for the petitioner has further submitted that after registering the case, the second respondent has traced out the petitioner's daughter and hence, the petitioner has filed a petition before the second respondent on 21.02.2018, seeking for custody. But, the second respondent instead of handing over the said victim to the petitioner, has directed that the victim to be kept in the fourth respondent Child Home. He further submitted that since the victim is kept in the Child Home, her education is also being spoiled and hence, he requests to direct the respondents 1 to 3 to give custody of the said Manju to the petitioner or her custody may be given to the College namely Sakthi Nursing Home so that she can continue her education.

5.The learned Additional Government Pleader appearing for the respondents 1 to 3 has submitted that based on the complaint given by the petitioner herein, a case has been registered by the third respondent on 16.01.2018 in Cr.No.11 of 2018 under Section 366 (A) I.P.C against one Ramesh and 3 others. He further submitted that after registering the case, the victim girl Manju was secured and subjected to medical examination and the medical examination revealed that she was subjected to sexual offences and based on that, the case was altered into Section 366(A) I.P.C and Sections 4 and 12 of POCSO Act. He further submitted that on the date of alleged offence, the victim girl was 17 years old and she would



complete 18 years on 04.03.2018. Hence, taking into consideration of the aforesaid facts, the said victim girl was sent to the 4th respondent Child Home and there only, she has been kept in custody. He further submitted that the victim girl refused to go with her mother (the petitioner herein).

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6.As per the report submitted by the second respondent, the victim girl would have completed 18 years on 04.03.2018 and with regard to the said fact, there is no dispute. So, as on date, (19.03.2018) she attained majority. As such, she cannot be directed to go with her mother/petitioner. Since she attained majority, she is entitled to take a decision independently with whom she wants to stay. Therefore, this petition has become infructuous and the same is liable to be dismissed.

7.Accordingly, this writ petition is dismissed. No costs.

Sd/-

Assistant Registrar (Crl.Side)

/True Copy/

Sub Assistant Registrar

To

1.The Superintendent of Police,
Kanyakumari District,
Nagercoil.

2.The Deputy Superintendent of Police,
Kanyakumari Division, Kanyakumari.

3.The Inspector of Police,
Rajakkamangalam Police Station,
Kanyakumari District.

+1cc to The Special Government Pleader, SR.No.56853

vs

RL/5C/3P/SKN/RSK/SAR1/20/4/2018

Order made in
W.P(MD) No.4181 of 2018

19.03.2018