



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 06.08.2018
CORAM
THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

CRL.O.P. (MD) No.13768 of 2018

WEB COPY

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... Petitioner

Vs

1.The Superintendent of Police,
Sivagangai District,
Sivagangai.

2.The Superintendent of Prison,
Central Prison,
Madurai.

3.The Inspector of Police,
Palayanur Police Station,
Palayanur,
Sivagangai District.
(Crime No.32/2018)

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying, to direct the respondents to shift the petitioner's son namely Ajith @ Ajaithevan who is lodged at Central Prison, Madurai in connection with the case in Cr.No.32/2018 on the file of the third respondent to Borstal School, Melur, Madurai District for the reason that he is running 18 years and 7 days when compared to his date of birth dated 10.07.2000.

For Petitioner : Mr.V.Sankaranarayanan

For Respondents : Mr.K.Suyambulingabharathi
Government Advocate (Crl.side)

ORDER

This petition has been filed seeking for a direction to the respondents to shift the petitioner's son, namely, Ajith @ Ajaithevan, who is now lodged at the Central Prison, Madurai in connection with the case in Crime No.32 of 2018 to the Borstal School, Melur, Madurai District.

2.The learned counsel appearing for the petitioner submits that as on the date of the alleged offence, the petitioner has not completed 18 years of age and hence, he should have been treated as a juvenile. The learned counsel appearing for the petitioner further submitted that the petitioner should not have been sent under the judicial custody to the Central Prison, Madurai.



3.The learned Government Advocate (Crl.side) appearing for the respondents 1 and 2 submits that the petitioner's son had surrendered before the Court and at the time of surrender, he has shown his age to be 22 years.

4.Admittedly, in this case, there is a dispute with regard to the age of the petitioner's son. This can only be decided by the Court, which had remanded the petitioner to the Central Prison, Madurai. The Juvenile Justice (Care and Protection of Children) Act, 2015, itself provides for the manner in which, the age of a juvenile has to be determined by the Court.

5.It is for the petitioner to approach the concerned Court and make an appropriate application in order to determine the age of the petitioner's son, in order to enable the Court to decide the juvenility that is being raised by the petitioner in this case. On such application being made, the Court below shall proceed in accordance with law and if in case it finds that the petitioner's son was a juvenile on the date of commission of the offence, then appropriate orders shall be passed under the relevant Act.

6.With these directions, this criminal original petition is disposed of.

Sd/-

Assistant Registrar(Crl.side)

/True Copy/

Sub Assistant Registrar(CS-I)

To

1.The Superintendent of Police,
Sivagangai District, Sivagangai.

2.The Superintendent of Prison,
Central Prison, Madurai.

3.The Inspector of Police,
Palayanur Police Station,
Palayanur, Sivagangai District.

4. The Principal Sessions Judge,
Sivagangai.(for necessary Action)

5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

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