

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

WRIT PETITION No.11133 of 2018

ORDER:

This Writ Petition, under Article 226 of the Constitution of India, is filed by the petitioner seeking verbatim the following relief:

“For the reasons stated in the accompanying affidavit the writ petitioner herein prays that this Hon’ble court may be pleased to issue writ more particularly one in the nature of a writ of mandamus or any other appropriate Writ or order or direction to set a side the Crime No. 307 of 2017 on the file of the Police Station Narayanaguda, Hyderabad as it is unconstitutional void, illegal, arbitrary and violation of Articles 14, 21, of the Constitution of India and pass such order or orders which may deem to be fit and proper in the interest of justice.”

2. I have heard the submissions of Sri *Athik Basukula*, learned counsel appearing for the petitioner, and of the learned Government Pleader for Home (Telangana) appearing for the respondents 1 to 5. I have perused the material record.

3. The case of the petitioner, in brief, is as follows: The petitioner and the 8th respondent are living as husband and wife. While so, the 4th respondent – Station House Officer, Narayanaguda Police Station, Hyderabad, arrested the petitioner, without following the procedure established by law, and produced the petitioner and the 8th respondent before the Court of the learned IX Additional Chief Metropolitan Magistrate, Hyderabad, on 28.02.2018, at about 5.30 P.M. On such production, the Court remanded the petitioner to judicial custody and further ordered for handing over the custody of the 8th respondent to her parents, i.e., the respondents 6 & 7 herein, with a direction to keep the 8th respondent in their custody without causing any inconvenience,

mental and physical ill-treatment, in any manner, to the said 8th respondent. At the time of such remand orders and directions by the said learned Judge, it was not brought to the notice of the said Judge that the 8th respondent is a minor and that in that view of the matter, the present writ petition is filed seeking the afore-stated relief.'

4. Learned counsel for the petitioner would submit that since the 8th respondent is a minor, necessary orders have to be passed keeping in view the interest of the 8th respondent, which is paramount.

5. Learned Government Pleader for Home would submit that the petitioner is arrested in connection with the case in Crime No.307 of 2017, registered for the offence 'girl missing'; that after his arrest, by following the procedure established by law, remand orders are obtained; that the Section of law is subsequently altered to Section 363 of the Indian Penal Code, 1860; that the girl is now with the parents as per the orders of a competent Court; that if the petitioner or the 8th respondent are entitled to any relief, they must approach the appropriate Forum for the remedies, which the law provides; and, that the writ petition is not maintainable. He would also submit that the issue as to whether the 8th respondent is a major or a minor is a factual issue and that has to be decided by an appropriate Forum and not in a writ proceeding. He would also submit that a direction to set aside the crime registered, as sought for in the writ petition, also cannot be granted in the facts and circumstances of the case.

6. Having regard to the facts and submissions, the Writ Petition is disposed of reserving liberty to the petitioner to approach an appropriate Forum and seek the remedies, which the law permits. There shall be no order as to costs.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order.

M.SEETHARAMA MURTI, J

Date: 10th April, 2018

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