

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY
AND
THE HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

WRIT PETITION No.28675 of 2018

28.09.2018

Between:

Kolli Priyanka

..Petitioner

and

The State of Andhra Pradesh,
represented by its Secretary,
Home Department, Secretariat Buildings, Velagapudi,
Amaravathi Mandal, Guntur and others

..Respondents

Counsel for the petitioner: Smt.K.Seshana Iyar, senior counsel
for Mr.K.Chaitanya

Counsel for respondent Nos.1 to 3: Assistant Government Pleader
attached to Advocate General (A.P.)

Counsel for respondent No.4: Mr.T.Balamohan Reddy

The Court made the following:

ORDER: (Per the Hon'ble Sri Justice C.V.Nagarjuna Reddy)

This writ petition is filed for issue of *Habeas Corpus* directing respondent Nos.1 to 3 to produce the petitioner's son *viz.*, Kolli Ashok, S/o Kolli Rajesh Kumar (hereinafter referred to as 'the alleged detenu') before the Court and handover his custody to her.

2. The alleged detenu is the son of the petitioner and respondent No.4. Due to matrimonial disputes between them, the dispute relating to the custody of the alleged detenu arose. The petitioner pleaded that on 30.07.2018 at about 7.00 p.m. in her absence from the house and when the alleged detenu was playing in front of her house in the presence of her mother – T.Malleswari and grandmother – N.Dhana Lakshmi, respondent No.4 came along with his associates and followers numbering about ten and took the alleged detenu into their hands and took him away in Innova Car bearing registration No.AP21-AX-1234. She further averred that she sought to give a complaint to the Nellore Rural Police, but the same was not taken on file and no action in law has been initiated by the Police. She, therefore, filed the present writ petition for the aforementioned relief.

3. In response to the notice issued by this Court, respondent No.4 appeared along with the alleged detenu (minor child) on 29.08.2018. This Court took the initiative to make mutually agreeable arrangement between the parties for the custody of the alleged detenu and was able to persuade respondent No.4 to arrange accommodation to the petitioner and permit her to keep the custody of the alleged detenu with visitation rights to him. Respondent No.4 was also made to agree that he will admit the alleged detenu in a good school. Indeed, after making the above arrangements, respondent No.4 filed an affidavit informing the Court that the alleged detenu was admitted in Meridian school and that he identified a few flats in different areas selected by the petitioner for her stay along with the alleged detenu. On 20.09.2018, this Court has taken note of the arrangements made by respondent No.4 as noted above. Both the parties have agreed to file a joint memo reducing the mutually agreed arrangements into writing for settling the dispute. For the said purpose, the case was adjourned to today.

4. Today, at the hearing, both parties are personally present along with their respective counsel. While respondent No.4 has agreed to stand by the arrangement for which he has earlier agreed, the petitioner has gone back. The learned senior

counsel appearing for the petitioner has submitted that though she tried to persuade her client to agree for the mutual arrangement, the petitioner has been apprehending physical harm from respondent No.4 and his sister's family and that therefore, she is not willing to enter into any arrangement for settling the dispute.

5. During the hearing, we have observed the conduct of the alleged detenu (minor boy). Though we permitted the petitioner to take him with her, he was not willing to go with her. When she tried to physically lift him, he cried aloud. From the above observed behaviour of the alleged detenu, we are convinced that he is very much attached to respondent No.4 and is not willing to go to the petitioner. We are also convinced that respondent No.4 is treating his son (alleged detenu) with all the care and affection and also looking after well, his health and educational needs.

6. In the aforementioned facts and circumstances of the case, we are of the opinion that the alleged detenu is not in the forcible custody of respondent No.4. Therefore, the petitioner is not entitled to the relief claimed in this writ petition. This order, however, will not preclude the petitioner from

availing appropriate legal remedies before the Court of the competent jurisdiction under the extant statutory provisions seeking custody of the alleged detenu. In such event, the observations made in this order shall not influence the Court while deciding such case.

7. Subject to the liberty given to the petitioner as above, the Writ Petition is dismissed.

C.V.NAGARJUNA REDDY, J

GUDISEVA SHYAM PRASAD, J

28th September, 2018
GHN

