

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.07.2019

Coram

The Hon'ble Mr. Justice M.M.SUNDRESH
and
The Hon'ble Mr. Justice M. NIRMAL KUMAR

H.C.P. No.167 of 2019

Balamma

... Petitioner

-vs-

1.The Inspector of Police(Crime)
Palladam Police Station,
Palladam,
Tiruppur,
Tiruppur District.

2.Sneha Social Service Society
No.49, Mangalam Road,
Palladam,
Tiruppur District - 641 664.

3.The Chairman
Child Welfare Committee,
Government Observation Home,
District Collector Office Campus,
Tiruppur,
Tiruppur District.

4.The Chairman,
Child Welfare Committee,
Government Observation Home,
No.34, East Bouli Ward Road,
Trichy.

5.The Inspector of Police,
Boiler Plant Police Station,
Tiruchirapalli.

6.The Deputy Commissioner of Police,
Anti Child Trafficking Unit,
CCB, Vepery, Chennai.

7.The Deputy Superintendent of
Anti Child Trafficking Unit,
C.B.C.I.D, Egmore,
Chennai.

8.Anti Child Trafficking Unit,
Trichy.
(Respondents 5 to 7 suo motu
impleaded vide order dt. 26/2/19;
8th respondent suo motu
impleaded vide order dt.29/3/19)

... Respondents

Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus directing the respondents to produce the children Agalya and Sathya both aged 4 years before this Court and they may be set at liberty.

For Petitioner : Mr.J.C.Durairaj

For Respondents : Mr.C.Iyyappa Raj
: Addl. Public
Prosecutor for R1

ORDER

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

The petitioner, claiming to be the grandmother of the detenues, has come forward to file this writ petition, inter alia, alleging that they were born to her daughters, by name, Devi @ Santhi and Kamatchi @ Jothi.

2. With some apprehension in mind, this Court ordered DNA tests to be conducted on the detenues as well as the daughters of the petitioner. The DNA tests conducted would reveal that the same is not matched with the petitioner's daughters. Therefore, prima facie, it appears that the detenues are not born to the daughters of the petitioner. In such view of the matter, the very basis of the claim made by the petitioner goes. She cannot claim to be the grandmother of the detenues. Furthermore, the daughters of the petitioner have not come forward to file any petition.

3. The learned counsel appearing for the petitioner has made reliance upon the order passed by the learned jurisdictional Magistrate directing to hand over the detenues to her. We are afraid that the said order will not enure to the

benefit of the petitioner. The learned jurisdictional Magistrate did not have the benefit of the DNA tests conducted. Had it been so, such an order would not have been passed. Secondly, Courts are concerned with the paramount interest of the children by applying the principle of parens patriae. Therefore, there is no law which would prohibit the order being passed in the interest of the children.

4. From the narration made above, we are of the view that the petitioner is not entitled for the relief particularly when it has been disproved that the DNA of the petitioner's daughters do not match with that of the detenues.

5. In view of the above, the Habeas Corpus Petition stands closed. However, we make it clear that the sixth and the seventh respondents shall go on with the investigation on the larger issue involving child trafficking.

Sd/-
Assistant Registrar (CS-VIII)

//True copy//

Sub Assistant Registrar

mmi/ssm

To

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Anti Child Trafficking Unit,
C.B.C.I.D, Egmore,
Chennai.
- 7.Anti Child Trafficking Unit,
Trichy.
- 8.The Public Prosecutor,
High Court, Madras.
9. The Judicial Magistrate,
Palladam, Tiruppur.

+1cc to Mr.J.C.Durairaj, Advocate SR.No.64283

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GP(CO)
GMY(29/08/2019)



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