

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 06.02.2019

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MR. JUSTICE M.NIRMAL KUMAR

HCP.No.295 of 2019

Santhi .. Petitioner

Versus

- 1.The Commissioner of Police,
Veppery, Chennai-7.
- 2.The Deputy Commissioner of Police,
T.Nagar Police District,
Chennai-17.
- 3.The Assistant Commissioner of Police,
Ramapuram, Chennai-89.
- 4.The Inspector of Police,
R-11, Royala Nagar Police Station,
Ramapuram, Chennai-89.

5.M.Manikandan .. Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of habeas corpus directing the respondents herein, to produce the petitioner's minor daughter namely "Miss.A.Poongulali" (aged about 17 years) before this Court and handover her to the petitioner forthwith.

For Petitioner : Mr.M.Lakshmanan

For Respondents : Mr.C.Iyyappa Raj, APP

ORDER

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

The petitioner is the mother of the detainee, namely Ms.A.Poongulali, who was born on 20.08.2001 and she had passed Higher Secondary Examination. According to the petitioner, apart from the detainee, she is having two other daughters, who

are aged about 16 years and 14 years respectively and her husband died long back and despite her difficulty and poverty, she is educating her three children.

2. It is the specific case of the petitioner that the 3rd respondent who is a neighbour to her house, used to confess with her daughter on the pretext to marry her and she is missing from 09.30 am on 02.02.2019 and in this regard, she has lodged a compliant on the same date, based on which a case in Crime No.38 of 2019 was registered by the 4th respondent, on the ground of girl missing. Since, no further progress had taken place and it also involves welfare of the minor daughter, the petitioner had approached this Court by filing this Habeas Corpus Petition.

3. When the matter is listed today, this Court ordered notices to the respondents and Mr.C.Iyyapparaj, learned Additional Public Prosecutor accepted notice on behalf of the official respondents. After sometime, the learned Additional Public Prosecutor appearing for the respondents made a mention that the detainee has been secured and therefore, this Habeas Corpus Petition may be taken for hearing today itself.

4. The victim girl was produced before this Court and this Court made enquiry with her. The detainee would state that she has passed Higher Secondary Course and she is interested in pursuing further studies by studying B.Com degree and contrarily her mother / petitioner has made an attempt to give her marriage to the close relative and since, it is not liked by her, she went away from the house with the 5th respondent and now, she has been secured by the 4th respondent.

5. The mother of the petitioner, who is also present before this Court, was enquired. She would state that she is a Widow and with great difficulty, she gave education to her children and the 5th respondent had brainwashed her and took her away. The family of the 5th respondent also not treating either the detainee and the petitioner, well and the 5th respondent has no inclination to marry the detainee, but his only aim is to exploit for obvious and other reasons and if the custody of the daughter is handed over to her, she would fulfill her wishes by pursuing her academic career and this Court may give proper and suitable advice to the Detainee.

6. Mr.C.Iyyappa Raj, learned Additional Public Prosecutor appearing for the official respondents would submit that the 4th respondent has intended to conduct fair and proper investigation in respect of the case already registered and if any criminality is found out, stringent action will be taken against the persons concerned in accordance with law and also undertakes to file a Status Report in that regard.

7. This Court has paid its best attention and anxious consideration to the materials placed as well as considered the rival submissions made by the Detenue and her mother / petitioner before this Court.

8. The Detenue as on today is a minor and though, she would state that she want to go with the 5th respondent on her own volition, this Court cannot take cognizance of the same. It is also a categorical submission of her mother / petitioner that she has been brainwashed and tutored to give certain treatments and however, it is for the Investigating Officer to take into consideration of the same and this Court has not expressing any opinion as to the merits and demerits of the case registered by the 4th respondent. It is also to be noted at this juncture that it is the duty and responsibility of the 4th respondent to conduct fair, proper and impartial investigation. This Court hope trust that the said official would do so. Since, the detenue is a minor daughter of the petitioner, who is also the natural guardian, this Court is inclined to grant custody of the detenue to the mother / petitioner. The 4th respondent shall continue with the investigation in respect of the case registered and file a status report on 20.02.2019.

9. The Habeas Corpus Petition stands disposed of accordingly. Call on 20.02.2019. Status report of the 4th respondent by then.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Commissioner of Police,
Veppery, Chennai-7.
 2. The Deputy Commissioner of Police,
T.Nagar Police District,
Chennai-17.
 3. The Assistant Commissioner of Police,
Ramapuram, Chennai-89.
 4. The Inspector of Police,
R-11, Royala Nagar Police Station,
Ramapuram, Chennai-89.
 5. The Public Prosecutor
High Court, Madras.
- +1 cc to Mr.M.Lakshmanan, Advocate, S.R.No.10299

HCP.No.295 of 2019

CP(CO)
SSM(06/03/2019)