

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 08.04.2019
CORAM

THE HONOURABLE Mr.JUSTICE M.SATHYANARAYANAN
and
THE HONOURABLE Mr.JUSTICE M.NIRMAL KUMAR

HCP.No.570 of 2019

K.Radhakrishnan .. Petitioner/Father of the
Detenue

Vs.

1.The Superintendent of Police
Namakkal District.

2.The Inspector of Police
Pallipalayam Police Station
Namakkal District.

3.Santhosh Kumar .. Respondents

Prayer : Habeas Corpus Petition filed under Article 226 of Constitution of India, praying to issue a Writ of Habeas Corpus directing the first and second respondents to produce petitioner's minor daughter namely Sowmiya, aged about 17 years, who is under illegal custody of the third respondent, before this Court and set the detenue at liberty

For Petitioner : Mr.M.Ravi

For Respondents : Mr.C.Iyyappa Raj [R1 & R2]
Additional Public Prosecutor

ORDER

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

The petitioner, who is the father of the detenue, namely Sowmiya [DOB :24.12.2001], had lodged a complaint on the file of the second respondent and it would state among other things that he got married to one Gomathi and out of wedlock, the detenue and one male child named Vimal Raj were born. Due to the difference of opinion, both of them were living separately for the past six

years. It is further stated by the petitioner that her daughter was doing her Higher Secondary Education in Krishnaveni Ammal Girls Higher Secondary School at Pallipalayam, and she was under the care and custody of her mother, and from 26.01.2019 onwards, she was found missing. The petitioner on enquiry, came to know that the detainee had eloped with the third respondent, on the premise that he had made a false promise to marry her.

2. The second respondent on the basis of the complaint, has registered a case in Crime No.105 of 2019 on 19.02.2019, for the commission of offences under Section 366(A) of IPC, and commenced the investigation.

3. This Habeas Corpus Petition was entertained on 20.03.2019, and subsequently it came up for hearing on 03.04.2019 and it was adjourned to 26.04.2019. Mr.C.Iyyappa Raj, learned Additional Public Prosecutor appearing for the State, made a mention this morning that the detainee was traced and accordingly, the case was listed today at 2.15 P.M.

4. The detainee was traced from the custody of maternal grandmother and was produced before this Court today. On enquiry, she would state that she had completed her Higher Secondary Education and intended to pursue her career in law, and since attempts were made by her mother for the detainee's marriage, she left her home and went to her maternal grandmother's home.

5. The mother of the detainee is also present and she would state that the detainee is a studious girl and regular in her studies. She assured to take all necessary steps to enable the detainee to pursue her academic career and without the detainee's consent, she will not make any arrangements for her marriage.

6. The father of the detainee, who is also present today, would submit that he is eking his livelihood as a carpenter and he is educating his son, who is also under the care and custody of his wife, and on account of difference of opinion that arose between him and his wife, they both are living separately for quite number of years and when he went to her wife's house for the purpose of meeting his daughter, an evasive answer was given by his wife and therefore, he came forward to file this Habeas Corpus Petition.

7. The learned Additional Public Prosecutor would submit that the detainee has been produced from the custody of her maternal grandmother and the detainee has not been subjected to any medical examination.

8. This Court has considered the rival submissions and also perused the materials placed before it.

9. Considering the facts and circumstances of the case and the detinue being a major, has studied upto Higher Secondary and she intend to pursue her academic career, this Court is of the view that the detinue shall be set at liberty, so as to enable her to take her own call as to her future and well-being. However, the second respondent is directed to proceed with the investigation in a fair, proper and impartial manner and file a final report before the jurisdictional Court, in connection with the case in Crime No.105 of 2019, as early as possible.

10. This Habeas Corpus Petition is disposed of accordingly.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To:

- 1.The Superintendent of Police
Namakkal District.
- 2.The Inspector of Police
Pallipalayam Police Station
Namakkal District.
- 3.The Public Prosecutor
High Court, Madras.

+1 cc to Mr.M.Ravi, Advocate Sr.No.34983

SR(CO)
CSL/10.05.2019

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