

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 10.04.2019
CORAM:
THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN
and
THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR
H.C.P.No.716/2019

Philomina Nayak

..Petitioner

vs.

1.The State rep.by
The Station House Officer
Lawspet Police Station
Pondicherry.
Cr.No.16/2018.

2.The Chairperson
Child Welfare Committee
Pudhucherry.

3.The Officer Incharge
St.Francis Assisi Orphanage
Kurusukuppam, Puducherry.

.. Respondent

Prayer : Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of habeas corpus directing the respondents to produce the petitioner's daughters [1] Ankita, aged about 12 years [2] Geetha aged about 9 years [3] Sangeetha aged about 6 years and her sister's daughter [4] Summi aged about 5 years before this Court and hand over the custody to the petitioner.

For Petitioner .. Mr.P.T.Perumal

For Respondent .. Mr.D.Bharatha Chakravarthy
Public Prosecutor [Pondy]

ORDER

(Order of the Court was made by M.SATHYANARAYANAN, J)

The petitioner is the mother of the minor detenus, viz., Ankita, aged about 12 years ; Geetha aged about 9 years; Sangeetha, aged about 6 years and her sister's daughter namely Summi, aged about 5 years and she came forward to file this Habeas Corpus Petition stating among other things that one of her daughters, viz., Ankita, was suffering due to some illness

and with the help of one NGO by name Mission Humaitaire headed by Mrs. Therry Gagner, the said child was given treatment and she got cured. Ankita was also admitted in Vasavi CBSE International School at Puducherry and since the said school insisted for the consent from the natural guardian or to obtain an Adoption Deed and accordingly, the petitioner executed the Adoption Deed in favour of Therry Gagner through Adoption Deed bearing No.1318/2017 dated 12.09.2017 registered on the file of the office of the Sub Registrar, Oulgarpet, Pudhucherry. The said person, who is a French National, also took care of the other minor daughters of the petitioner.

2 On 07.02.2018, the 2nd respondent went to Vasavi CBSE International School and forcefully taken Ankita and brought her to her residence along with Therry Gagner and when the husband of the petitioner enquired, he was informed that the 2nd respondent received an anonymous complaint, alleging that Therry Gagner has sexually abused the said child. In this regard, the 1st respondent has also registered a case in Crime No.16/2018 for the commission of the offences under relevant provisions including POCSO Act.

3 It is brought to the notice of this Court that the case after investigation, has culminated into a charge sheet and the same is taken on file in Spl.CC.No.21/2018 on the file of the Special Court for POCSO Act cases, Puducherry, and the trial is going on. The petitioner also filed a petition before the said Court seeking custody of the detenus and the same came to be dismissed with a liberty to approach this Court and accordingly, she has filed the present Habeas Corpus Petition.

4 Mr.P.T.Perumal, learned counsel for the petitioner would submit that admittedly, the petitioner is the mother and natural guardian of all the detenus and since the children have been kept under the custody as per the orders of the 2nd respondent, this Court may pass appropriate orders, ordering restoration of their custody to the parents.

5 Per contra, Mr.D.Bharatha Chakravarthy, learned Public Prosecutor appearing for the Union Territory of Puducherry, on instructions, would submit that the trial of the case in Spl.CC.No.21/2018 is going on and most of the material witness turned hostile and the French National, Therry Gagner, still supporting the family of the parents of the detenus.

6 In response to the said submission, the learned counsel for the petitioner would submit that the parents of the detenus, after getting the custody, would like to go back to their native State, viz., Odisha.

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

8 In terms of the provisions of the Juvenile Justice [Care and Protection of Children] Act, 2015, the Child Welfare Committee, the 2nd respondent herein is authorised to conduct an enquiry and pass appropriate orders as to the well being and custody of the children.

9 In the light of the above facts and circumstances, the 2nd respondent herein, viz., the Chairperson, Child Welfare Committee, Puducherry, shall take appropriate steps for conducting enquiry in terms of the provisions of the Juvenile Justice [Care and Protection of Children] Act, 2015, as to the restoration of the custody of the children to their parents as expeditiously as possible and not later than two weeks from the date of receipt of a copy of this order.

10 The Habeas Corpus Petition stands disposed of accordingly.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

- 1.The Station House Officer
Lawspet Police Station
Pondicherry.
- 2.The Chairperson
Child Welfare Committee
Pudhucherry.
- 3.The Officer Incharge
St.Francis Assisi Orphanage
Kurusukuppam, Puducherry.
- 4.The Public Prosecutor [Puducherry]
High Court, Madras,

5.The Principal District Sessions Judge,
Puducherry.

+1cc to Public Prosecutor, Advocate sr.no.35713
+2cc to Mr.P.T.Perumal, Advocate sr.no.35406

HCP.NO.716/2019

nrl(co)
nr 12/04/2019



WEB COPY