



WEB COPY

1

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.12.2019

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH
AND

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

H.C.P.No.2749 of 2019

Vijayalakshmi

.. Petitioner

Vs.

State by

1. The Inspector of Police,
Auroville Police Station,
Auroville, Villupuram District.

2. Ananthi

.. Respondents

Habeas Corpus Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Habeas Corpus to direct the first respondent to bring and produce the detenu, by name A.Arun (aged about 17 years) before this Court from the illegal custody of the second respondent and hand over to the petitioner.

For petitioner : Ms.R.Hemalatha

For respondents : Mr.R.Prathap Kumar, Addl.P.P. for R-1
Mr.K.Gandhi Kumar for R-2

ORDER

(The Order of the Court was made by R.Subbiah,J)

This Habeas Corpus Petition is filed praying for issuance of a Writ of Habeas Corpus to direct the first respondent to bring and produce the detenu, by name A.Arun (aged about 17 years) before this Court from the illegal custody of the second respondent and hand over to the petitioner.

2. It is the case of the petitioner that she married one Arumugam 19 years back. Due to their wed-lock, one male child, by name Arun and one female child, by name Asha, were born. The second respondent is the wife of the petitioner's husband's brother Manigandan. It is stated that the said Manigandan is a rowdy element. In the year 2008, while the petitioner's son Arun was studying III Standard, the said Manigandan took away the petitioner's son Arun and detained him under his illegal custody. When the petitioner made a request before the said Manigandan to return back her son, he threatened the petitioner.



Subsequently, the said Manigandan died. Still the custody of the detenu is with the second respondent. The petitioner lodged a complaint on 29.08.2019 before the first respondent, against the second respondent, and she received C.S.R.No.332 of 2019. Thereafter, the present Habeas Corpus Petition has been filed for the relief stated supra.

3. Today, when the matter is taken up for consideration, the second respondent appeared and she had stated that the petitioner is in illegal intimacy with another person and when the petitioner's son was two years old, he was tortured by his own mother and he was severely beaten, since he was standing as a stumbling block for the illegal intimacy. To support this allegation, the second respondent also produced photograph of the detenu, which would show wound around his body. The detenu also showed the marks of the wound still found in his body. Thereafter, the second respondent had taken the detenu along with her. The detenu is now with the second respondent and all along, she had been giving education to him. The detenu had been brought up by the second respondent. We have also enquired the second respondent and the detenu. The detenu also confirmed the torture undergone by him at the hands of his own mother and he refused to go along with his mother and now, it is stated that he is 19 years old.

4. Irrespective of the submissions made on either side, we are of the opinion that as the detenu is 19 years old and that he himself has stated that he is not in illegal custody with anyone, the question of illegal detention does not arise. The Habeas Corpus Petition is accordingly closed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

1. The Inspector of Police,
Auroville Police Station, Auroville, Villupuram District.
2. The Public Prosecutor, High Court, Madras

+1 cc to M/s.K.Gandhi Kumar, Advocate Sr.No. 104419

+1 cc to M/s.R.Hemalatha, Advocate Sr.No. 104807

AKM/22.01.2020/2P-5C /

H.C.P.No.2749 of 2019