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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.06.2019

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THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

H.C.P(MD)No.349 of 2019

P.Anchammal

... Petitioner

Vs.

1. The Superintendent of Police,
Office of the Superintendent of Police,
Pudukkottai District.

2. The Inspector of Police,
All Women Police Station,
Aranthangi,
Pudukkottai District.

3. The Inspector of Police,
Manamelkudi Police Station,
Pudukkottai District.

4. Kumar
Respondents

...

Prayer : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, to direct the respondents 1 to 3 to produce the person or body of the petitioner's minor daughter namely Kavitha, D/o Paulraj, aged about 17 years, who has been kept under illegal custody of the fourth respondent before this Court and hand over the custody of the petitioner.

For Petitioner : Mr.D.Karthikraja

For Respondents : Mr.K.Dinesh Babu

Additional Public Prosecutor
for R.1 to R.3

ORDER

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

The petitioner is the mother of the minor detenu viz., P.Kavitha (date of birth is 03.01.2002).

2. According to the petitioner, out of marriage, she begot three children viz., Gowsalya, Kavitha and Pandi. The petitioner's husband had died. She would further state that the fourth respondent has developed an intimacy with her minor daughter and on



the pretext of marrying her, has kidnapped her on 30.03.2019 at about 10.00 p.m., and when the petitioner questioned him, she was threatened with dire consequences and therefore, she did not lodge a complaint and subsequently, submitted a representation dated 03.04.2019 to the first respondent with a copy marked to the respondents 2 and 3. The petitioner, being the mother, is very much concerned about the welfare of her minor daughter and after knowing the whereabouts of her minor daughter, came forward to file the present Habeas Corpus Petition.

3. When the matter is called, the detenu was produced before this Court along with her senior mother namely M.Chithiravalli, elder sister of the petitioner as well as the elder daughter of the petitioner viz., Gowsalya. The detenu as well as her sister would say that her mother is having intimacy with very many persons and they used to visit the house very often. Anticipating anxiety and fearing safety for their body and soul, they voluntarily left the parental home and now they are in the care and custody of her senior mother viz., M.Chithiravalli.

4. When this Court has put a specific question to both of them including the detenu, whether they are willing to go back to the parental home, both are blatantly refused to do so.

5. The learned Counsel appearing for the petitioner would submit that admittedly the detenu is a minor and the petitioner being the mother and natural guardian, is entitled to have the custody.

6. This Court has informed the learned Counsel appearing for the petitioner as to the unwillingness on the part of the detenu and her sister to go to the parental house and in response, the learned Counsel appearing for the petitioner would submit that in that case, the detenu may be sent to the Home and be kept in the custody of the home, till she attains the majority.

7. The detenu as well as her sister had studied upto 10th standard and on enquiry, this Court came to know that they are very much aware of the surroundings and circumstances and also concerned about their own well being and safety and both of them expressed their disinclination to go to the parental home and live with her mother/petitioner.

8. The learned Additional Public Prosecutor appearing for the respondents 2 and 3 would submit that no F.I.R. has been registered based on the compliant given by the petitioner.

9. In the light of the fact that the minor detenu and her elder sister expressed their disinclination to go and live with her mother / petitioner and also expressed their willingness to remain under the care and custody of their senior mother namely



M.Chithiravalli, this Court is of the considered view that no positive orders would be passed in favour of the petitioner.

10. The senior mother of the detenu namely M.Chithiravalli would also assure before this Court that she would take care of the safety and well being of Gowsalya and Kavitha (minor detenu) and also enable both of them to pursue their further studies.

11. The said statement is also placed on record.

12. In the result, this Habeas Corpus Petition is dismissed.

sd/
Assistant Registrar

/True Copy/

Sub Assistant Registrar(CS)

To

1. The Superintendent of Police,
Office of the Superintendent of Police,
Pudukkottai District.
2. The Inspector of Police,
All Women Police Station,
Aranthangi,
Pudukkottai District.
3. The Inspector of Police,
Manamelkudi Police Station,
Pudukkottai District.

+1 CC to Mr.M.SURESH, Advocate (SR-67341[F] dated 07/06/2019)

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