



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **23.09.2019**

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

AND

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

H.C.P. (MD)No.269 of 2019

Sekar

: Petitioner

Vs.

1.The Superintendent of Police,
Pudukottai District, Pudukottai.

2.The Inspector of Police
Karambakudi Police Station
Karambakudi
Pudukottai District.

3.Prabhu

: Respondents

PRAYER: Petition is filed under Article 226 of the Constitution of India praying for the issue of a Writ of Habeas Corpus, to direct the respondents 1 & 2 herein to produce the body or person of the detainee, by name Santhiya, D/o.Sekar aged about 16 years who is illegally detained by the 3rd respondent herein and hand over the custody of the detainee with the petitioner.

For Petitioner

: Ms.M.Sudharani

For Respondents

: Mr.K.Dinesh Babu for R1 & R2

Additional Public Prosecutor

R3

:Mr.M.Fernand

ORDER

This petition has been filed to produce the detainee, who is the daughter of the petitioner.

2. This Court passed the following order on 20.09.2019:

"Pursuant to the order passed by this Court, on 13.09.2019, the respondent police produced the detainee before this Court.

2.We examined the detainee and her parents. The detainee has stated that her date of birth is 24.05.2002 and her name is Sandhiya. The detainee further stated that she is now six months pregnant and she is living along with the third respondent at



3.The parents of the detinue stated that they want to take care of the detinue and take her along with them. They further stated that they will get the detinue married to the third respondent, after the detinue reaches the marriageable age.

4.The third respondent was also present before this Court and he stated that he and the detinue are living as husband and wife at Aathur. He further stated that his date of birth is 03.07.1991 and he is a Carpenter by profession. He undertook before this Court that he will marry and take care of the detinue and live with her.

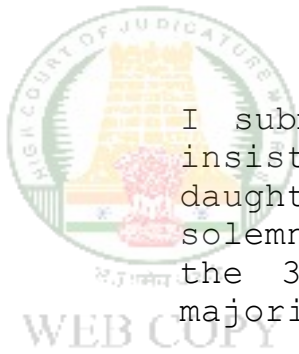
5.Taking into consideration the facts and circumstances of the case, the detinue has to be handed over to her parents, since the detinue was willing to go along with her parents. The third respondent is directed to be present before this Court along with his parents on the next date of hearing. On that date, the detinue and her parents shall also be present before this Court. By enquiring the parties, further orders will be passed by this Court. The learned counsel for the petitioner is directed to take an affidavit from the parents of the detinue undertaking to get her married to the third respondent in future.

6.Post the matter on 23.09.2019."

3. Pursuant to the above order, the parents of the third respondent were present before this Court. They specifically stated that they have no objection in their son getting married to the detinue, after she attains majority. The third respondent has also filed an affidavit before this Court undertaking to marry the detinue immediately after she attains majority. This affidavit is taken on file.

4. We directed the petitioner to file an affidavit before this Court. The petitioner has also filed an affidavit before this Court. The relevant portions in the affidavit are extracted hereunder:

"2.I submit that the fact remains that the 2nd respondent herein had registered an FIR in Crime No.50 of 2019 dated 11.03.2019 u/s.366-A IPC. I submit that on 20.09.2019 my daughter Santhiya had been secured and produced before this Hon'ble Court. I submit that it revealed that my daughter happens to be 6 months pregnant through the 3rd respondent herein and my daughter had informed that she had married the 3rd respondent. I submit that my daughter was born on 24.05.2002 and as on date she happens to be minor.



I submit that in view of my daughter's persistent insistence and on considering the welfare of my daughter, I undertake before this Hon'ble Court to solemnize the marriage of my daughter Santhiya with the 3rd respondent herein as soon as she attains majority."

5. We also personally enquired the parents of the detainee and they stated that they will take care of the girl till she attains majority. They also further stated that the third respondent can visit the detainee and the child. As per the undertaking, the petitioner will get his daughter married to the third respondent, after she attains majority.

6. In view of the above development, the detainee is permitted to go along with her parents, who shall take her of her and take her for regular medical check-ups. Even after the birth of the child, the detainee shall continue to live with her parents till she attains majority. Immediately after attaining majority, the detainee shall get married to the third respondent with the blessings of the parents belonging to both the parties. The second respondent police is directed to keep the FIR pending till the completion of the marriage and after ascertaining the marriage between the detainee and the third respondent, the same shall be closed.

7. This Habeas Corpus Petition is disposed of with the above directions.

Sd/-

Assistant Registrar ()

// True Copy //

Sub Assistant Registrar (CS)

RR

To

1.The Superintendent of Police,
Pudukottai District,
Pudukottai.

2.The Inspector of Police
Karambakudi Police Station
Karambakudi
Pudukottai District.



3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

Order made in
H.C.P. (MD) No.269 of 2019

Dated: 20.09.2019

KM/(09.10.2019) 4P 4C