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**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 11.07.2019**

CORAM:

**THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN
and**

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

H.C.P(MD)No.389 of 2019

Sethaiammal

... Petitioner

Vs.

1.The Superintendent of Police,
Dindigul District.

2.The Inspector of Police,
Natham Police Station,
Dindigul District.

3.Thavam

... Respondents

Prayer: Habeas Corpus Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Habeas Corpus, directing the Respondent No.1 & 2 to produce the body or person of the detainee, the petitioner's minor daughter namely Dhurga D/o.Late Chandran, aged about 16 years from illegal custody of the respondent No.3 before this Hon'ble Court and handed over the custody to the petitioner.

For Petitioner

: Mr.M.Sheik Sikkander Batcha

For Respondents 1 and 2

: Mr.K.Dinesh Babu

Additional Public Prosecutor

O R D E R

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

The petitioner is the mother of the detainee viz., Dhurga, aged about 16 years (D.O.B. 30.05.2002) and alleging her illegal custody and detention at the hands of the third respondent, who is also a married man, she came forward to file this Habeas Corpus Petition.

2.The learned counsel for the petitioner would submit that with regard to the missing of the detainee, a complaint has been lodged on the file of the second respondent, based on which, a case has been registered on 04.05.2019 in Crime No.259 of 2019 for the commission of offence under Section 366(A) I.P.C. and the petitioner being the mother of the detainee, who is very much concerned with the safety and wellbeing of her daughter, constrained to approach this Court by filing this Habeas Corpus Petition.



3.The learned Additional Public Prosecutor appearing for the respondents has produced the detainee and according to him the said detainee was found in the company of the third respondent and the third respondent was arrested and the detainee will be subjected to medical examination and depending upon the same the section of the offence in the F.I.R. would be altered.

4.The detainee has been enquired by this Court. She would state that on her own volition she went along with the third respondent, despite knowing the fact that the third respondent is a married man having two children and both of them got married in a temple at Viruthachalam and when this Court questioned her as to whether she is willing to go along with the petitioner, she expressed her disinclination to go along with the petitioner and she wants to be in the company of the third respondent. The petitioner/mother of the detainee is also present in the Court. When enquired, she would state that the custody of the detainee should be handed over to her and she would take care of her safety and wellbeing.

5.The learned Additional Public Prosecutor would submit that the medical examination of the detainee has to be done and since she disinclined to go along with the petitioner, she may be directed to be kept in a Home.

6.This Court considered the rival submissions and perused the materials placed before it.

7.It is admitted that the detainee is a minor and normally her custody should be handed over to her parent viz., the petitioner, who is present before this Court. It is also ascertained during the enquiry that the detainee belongs to de-notified community and the third respondent belongs to scheduled caste community and in the light of the said fact and that the detainee is not willing to go along with the mother, at present, this Court is of the considered view that she may be kept in Holy Cross Home, Deserved Women Home, Paravai Colony, Samayanallur, Madurai District (Phone No.0452 - 2463421) until further orders.

8.Since the detainee is not yet subjected to medical examination, till his medical examination is over, she has to be kept in the Vigilance Home maintained by Directorate of Social Welfare and as and when medical examination is over she shall be sent to Holy Cross Home, Deserved Women Home, Paravai Colony, Samayanallur, Madurai District (Phone No.0452 - 2463421). It is also open to them to give psychological counselling to the detainee. The



Investigation Officer is directed to conduct a fair and speedy investigation and this Court also records its appreciation him for the efforts taken by him to produce the detainee before this Court in a shortest possible time. Registry is directed to mark a copy of this order to Judicial Magistrate, Natham.

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In view of the above, the Habeas Corpus Petition is closed.

Sd/-

Assistant Registrar (CO)

/ True Copy /

Sub Assistant Registrar(CS-)

sj

To

- 1.The Judicial Magistrate,
Natham.
- 2.The Chief Judicial Magistrate, Dindigul.
- 3.The Superintendent of Police,
Dindigul District.
- 4.The Inspector of Police,
Natham Police Station,
Dindigul District.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.M.SHEIK SIKKANDAR BATCHA, Advocate
(SR-74788[F] dated 11/07/2019)

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ES/15.07.2019/3P/7C