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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.09.2019

CORAM

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

AND

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

H.C.P(MD)No.807 of 2019

P.John Kumar @ Kumar

... Petitioner/Father of the detenue

Vs.

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

2.The State, represented by
The Inspector of Police,
Valliyoor Police Station,
Valliyoor,
Tirunelveli District.

3.The State, represented by
The Inspector of Police,
Nanguneri Police Station,
Nanguneri,
Tirunelveli District.

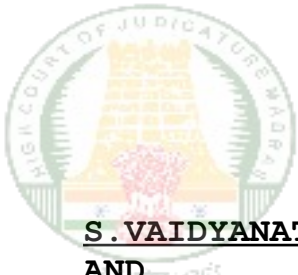
4.S.Inba Sathya

5.S.Pravin

... Respondents

PRAYER: This Habeas Corpus Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Habeas Corpus, directing respondents 1 to 3 to secure the Petitioner's daughter namely Baby Kala, D/o.John Kumar @ Kumar, aged about 1`7 years residing at Santhana Mariamman Kovil Street, South Kallikulam, Rahdapuram Taluk, Tirunelveli District. Who has been detained illegally by the respondents 4 and 5 and subsequently produce her before this Court and handover the Petitioner's daughter to the Petitioner forthwith.

For Petitioner	: Mr.S.Palanivelayutham
For Respondents	: Mr.K.Dinesh Babu
1 to 3	Addl. Public Prosecutor
For Respondent-4	: Mr.K.Rajeswaran
For Respondent-5	: No appearance



O R D E R

S.VAIDYANATHAN, J.

AND

N.ANAND VENKATESH, J.

The detainee namely, Baby Kala was produced before this Court by the respondents 1 to 3/Police.

2.We independently examined the Petitioner, who is the father of the detainee Baby Kala and the fourth respondent, who is alleged to have taken the daughter of the Petitioner into illegal detention.

3.The Petitioner stated that his daughter has joined a college and she has just completed 18 years and therefore, she must complete her graduation, before taking any decision regarding her marriage.

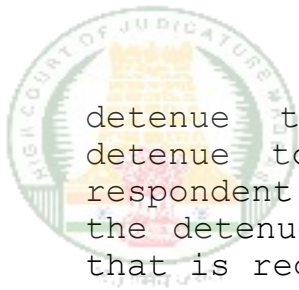
4.The detainee namely, Baby Kala stated that there is a love affair between her and the fourth respondent and she wants to marry the fourth respondent. She further stated that she has joined a college and she is willing to continue her studies. However, she categorically stated that she is not willing to go along with her father.

5.The fourth respondent stated that he is working as a Driver and his job is mostly at Kerala. He stated that his parents are agreeable for the marriage with the above said Baby Kala and they are also willing to support the education of the said Baby Kala. He further stated that the Baby Kala can continue her studies by staying in the hostel and after two years, a decision can be taken regarding their marriage.

6.We have heard the learned counsel for the Petitioner and the learned Additional Public Prosecutor appearing for the respondents 1 to 3 and the learned counsel appearing for the fourth respondent.

7.In view of the specific stand that has been taken by the parties, We are of the considered view that the relief as sought for by the Petitioner cannot be granted by this Court. Even though there is some dispute regarding the date of birth of the detainee, the date of birth even as per the learned counsel for the Petitioner is 31.8.2001. This means that the detainee has now turned major. Therefore, We cannot go against her wishes and force her to stay along with the Petitioner.

8.However, taking into consideration the fact that the fourth respondent, who is aged about 19 years, cannot marry the



detenue till he attains the age of 21 years, we cannot allow the detenue to stay along with the fourth respondent. The fourth respondent fairly stated that his parents are willing to support the detenue to continue her studies and will provide her with all that is required and enable her to complete her graduation.

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9. In view of the above, the detenue namely, Baby Kala is permitted to continue with her studies and she shall stay in the hostel attached with her college in the coming two years. After completion of graduation, an appropriate decision can be taken with regard to the marriage between the fourth respondent and the detenue Baby Kala. By the time the detenue completes her graduation, the fourth respondent will also attain the age of 21 years and that will be the legal age for the fourth respondent to marry in accordance with law. As time passes by, the Petitioner/father of the detenue can discuss with the parents of the fourth respondent and create a congenial atmosphere for the marriage between the fourth respondent and the detenue.

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

Sd/-

Assistant Registrar (crl.side)

// True Copy //

Sub Assistant Registrar(CS)

To

1. The Superintendent of Police,
Tirunelveli,
Tirunelveli District.
2. The Inspector of Police,
Valliyoore Police Station,
Valliyoore,
Tirunelveli District.
3. The Inspector of Police,
Nanguneri Police Station,
Nanguneri,
Tirunelveli District.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



+1 CC to Mr.S. PALANI VELAYUTHAM, Advocate (SR-84980[F] dated
04/09/2019)

+1 CC to Mr.K. RAJESHWARAN, Advocate (SR-85136[F] dated
04/09/2019)

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vsn

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