

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.6.2020

CORAM

THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE MRS. JUSTICE PUSHPA SATHYANARAYANA

H.C.P.No.957 of 2020

J.Pappu Kutty

...Petitioner

Vs

1.State.by the District Collector,
Vellore District, Vellore.

2.The Child Welfare Committee,
Government After Care Organization
for Women & Children Home,
Officers Line, Vellore-1.

3.Mr.Pugazh, Inspector of Police,
Katpadi Police Station, Katpadi,
Vellore District.

4.Mr.Rajasekar, Sub-Inspector of Police,
Virudhampattu Police Station,
Vellore District.

...Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Habeas Corpus directing the respondents to produce the petitioner's grandchild named J.Jenisha, aged 9, D/O Johny Paul Rajan, who is detained by the second respondent at the Government After Care Organization for Women & Children Home, Officers Line, Vellore-1, before this Court and hand over to the petitioner.

For Petitioner : Mr.M.Radhakrishnan for
Ms.S.Nadhiya

For Respondents 1 & 2: Mrs.Prabhavathi, APP

O R D E R

(Order of the Court was made by T.S.SIVAGNANAM,J)

We have elaborately heard Mr.M.Radhakrishnan, learned counsel appearing on behalf of Ms.S.Nadhiya, learned counsel on record for the petitioner and Mrs.Prabhavathi, learned

Additional Public Prosecutor accepting notice for respondents 1 and 2.

2. The petitioner is the paternal grandmother of the minor child J.Jenisha, D/O Johny Paul Rajan, aged 9 years and she seeks a direction to the respondents to produce before this Court her minor grandchild, who is now confined at the Government After Care Organization for Women & Children Home, Officers Line, Vellore-1.

3. The petitioner would state that both her son the said Mr.Johny Paul Rajan as well as her daughter-in-law Mrs.Shalini are absconding accused and that she has to take care of her minor grandchild, who has been now kept in the second respondent home at the behest of the fourth respondent, who has been impleaded in this petition as a party in his personal capacity along with the third respondent.

4. Though certain motive is alleged by the petitioner as against the fourth respondent with regard to taking custody of the child and lodging her in the second respondent home, we are not inclined to go into the same in the light of the order, which we propose to pass in this petition today.

5. The learned Additional Public Prosecutor, on instructions, submits that earlier one habeas corpus petition in HCP.No.785 of 2020 was filed for the very same relief by an advocate, in which, the prosecution raised an objection as regards the maintainability of the said habeas corpus petition. Thereafter, the said petition was closed on 03.6.2020. It is further submitted that the petitioner herein had voluntarily given a statement before the Village Administrative Officer concerned that she is not in a position to take care of the minor child and this was forwarded to the office of the District Collector and to the third respondent police. After the concerned District Child Welfare Officer observing all formalities, the child was kept in the second respondent home considering her safety and security. It is also submitted that if the petitioner seeks custody of the minor child, she should appear through video conferencing and make a solemn statement. It is further submitted that the minor child may also be interviewed through video conferencing so that the best interest of the child is sufficiently safeguarded.

6. After elaborately hearing the learned counsel for the parties and perusing the copy of the representation given to the Authorities concerned, we are of the view that the following order would meet the ends of justice:

"Since the reaction of the child and the demeanour of the petitioner have to be physically examined, neither the petitioner nor the minor child can be asked to come to Chennai due to lockdown. Hence, we direct that the District Child

Welfare Officer concerned shall produce the minor child before the Chief Judicial Magistrate, Vellore on 25.6.2020 after intimation to the petitioner. The Chief Judicial Magistrate, Vellore is directed to examine the petitioner and have an informal talk with the minor child. After considering all aspects and bearing in mind the fact that the welfare of the minor is paramount, the Chief Judicial Magistrate, Vellore shall pass an order as to whether it would be conducive if the custody of the minor child is handed over to the petitioner. The parties shall abide by such an order to be passed by the Chief Judicial Magistrate, Vellore."

7. With the above directions, the above habeas corpus petition is disposed of.

Sd/-

Assistant Registrar (AD I MDU)

//True Copy//

Sub Assistant Registrar

RS/ASR

To

- 1.The District Collector,
Vellore District, Vellore.
- 2.The Child Welfare Committee,
Government After Care Organization
for Women & Children Home, Officers Line, Vellore-1.
- 3.The Chief Judicial Magistrate, Vellore.
4. The Public Prosecutor,
High Court, Madras.

H.C.P.No.957 of 2020

CP(CO)
GN(23/06/2020)