

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.10.2020

Coram

The Hon'ble Mr. Justice M.M.SUNDRESH
and
The Hon'ble Mr. Justice D.KRISHNAKUMAR

H.C.P.No. 1576 of 2020

C.Sakthivel

... Petitioner

vs.

1.The Superintendent of Police,
Salem District.

2.The Inspector of Police,
Thevoor Police Station,
Salem District.

3.Palanisamy

... Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus directing the second respondent to produce the petitioner's niece Minor girl Sneha, daughter of Muthusamy, aged about 16 years, before this Court from the illegal custody of the third respondent.

For Petitioner .. Mr.A.C.Narasimhan

For Respondents.. Mr.R.Prathap Kumar,

Addl. Public Prosecutor for R1 & R2

ORDER

[Order of the Court was made by M.M.SUNDRESH, J.]

The petitioner, who is the maternal uncle of the detenue, has come forward to file this habeas corpus petition seeking her protection on the premise that she being a minor was married of by her parents with the third respondent, resulting in the birth of a child.

2. Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for respondents 1 and 2.

3.Learned counsel appearing for the petitioner submitted that the detainee was a minor and therefore, the marriage is a nullity.

4. We are not inclined to accede to the request made by the petitioner, who is also present before us. The marriage was conducted way back in the year 2019. Admittedly, a child was born out of the wedlock. Under the Hindu Marriage Act, 1955, such a marriage is voidable one at the instance of the minor. Even according to the petitioner, the marriage was solemnized by the parents of the detainee. Thus, there is no explanation on the part of the petitioner as to why he did not take any step either to stop the marriage or come before this Court at the earliest point of time, instead of allowing it to get consummated resulting in the birth of the child.

5. Learned Additional Public Prosecutor submitted that the parents, detainee and her husband are living together under the same roof along with the child.

6. In the light of the above, we do not find any reason to allow this habeas corpus petition especially when there is an unexplained delay of more than one year in approaching this Court and that too by the petitioner, who is only a maternal uncle of the detainee. Accordingly, the Habeas Corpus Petition is dismissed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

mmi/ssm

To

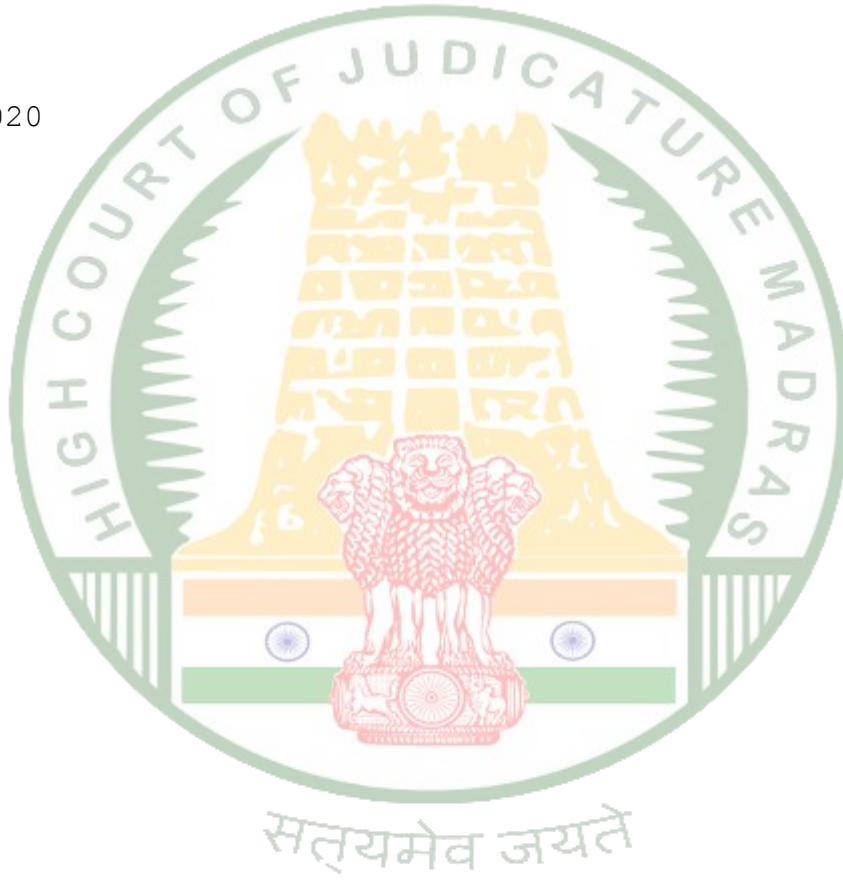
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3.The Public Prosecutor,
High Court, Madras.

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