

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.10.2020

Coram

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

H.C.P. No.1587 of 2020

V.Murugammal

.. Petitioner

Vs

1.The Deputy Superintendent of Police,
Bargur,
Krishnagiri District.

2.The Inspector of Police,
Pochampalli Police Station,
Krishnagiri District.

3.G.Silambarasan

... Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus directing 1st and 2nd respondents to produce the body of the petitioner's minor daughter namely, Divya, aged about 17 years, before this Court and handover to the petitioner from the illegal custody of the third respondent.

For Petitioner .. Mr.J.Pradeep

For Respondents .. Mr.R.Prathap Kumar,
Additional Public Prosecutor
for R1 & R2

ORDER

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

The petitioner, who is the mother of the detainee has come forward to file this writ petition. The detainee being a minor, is in the illegal custody with the third respondent.

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

3.Learned Additional Public Prosecutor, on instructions, submitted that on a complaint made by the petitioner, an enquiry was conducted and the detainee was produced. On a perusal of the School Certificate and the Aadhar Card, the detainee was found to be a major.

4.Learned counsel appearing for the petitioner submitted that as per the Birth Certificate, the detainee is a minor.

5.We are not inclined to go into the said issue as it involves the process of investigation by the second respondent. However, we may note that the detainee was indeed produced before the second respondent and only after the enquiry, the detainee was allowed to go with the third respondent. We may further note that at the time of the enquiry conducted, the petitioner has not produced the Birth Certificate.

6.In such view of the matter, we are not inclined to allow this habeas corpus petition. However, the second respondent shall continue the investigation which also involves the genuineness of the Birth Certificate produced by the petitioner as against the School Certificate. The second respondent shall complete the investigation within a period of three months from the date of receipt of a copy of this order.

7.The Habeas Corpus Petition is dismissed accordingly.

8.Upon hearing the learned counsel appearing on either side, we have already passed the aforesaid order.

9.After disposal of the case, mention has been made on behalf of the detainee through counsel Mr.G.Murali. The detainee has stated that she has married the private respondent and she is a major. Thus, the statement made by the detainee stands recorded. Inasmuch as the detainee has informed us that she is a major and married the private respondent, the presence of the deteneue is not required especially when she has made same statement before the second respondent on the earlier occasion. The detainee has further stated that the main reason for complaint is that the detainee and the private respondent belong to different communities. It is further stated by the detainee that the marriage was conducted at Amman Temple enroute to Dharmapuri.

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Post the matter on 07.10.2020 'for being mentioned'.

06.10.2020

mmi/ssm

ORDER: This HCP.1587/2020, coming on for hearing today under the caption "for Being Mentioned", upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of Mr.J.Pradeep, Advocate for the Petitioner and Mr.R.Prathapkumar, Additional Public Prosecutor for the respondents Mr.G.Murali, Advocate for the Detenue this court made the following order:

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

In conjunction with our earlier order passed yesterday (06.10.2020), the matter is taken up for hearing under the caption 'for being mentioned'.

2.Learned counsel appearing for the petitioner reiterated the fact that the birth certificate shows that the detenue is a minor. We have already recorded the relevant facts along with our discussion in our order dated 06.10.2020. Admittedly, the petitioner is the mother of the detenue. Thus, she is very well aware of the date of birth mentioned in the school certificate as well as the aadhar card. As stated, the detenue has also informed us that she is a major. There was an enquiry conducted by the police by enquiring the petitioner, detenue and the private respondent.

3.Considering the above, we do not find any illegal detention involved. However, we direct the second respondent to proceed with the investigation as stated in our earlier order and complete the same within a period of three months from the date of receipt of a copy of this order.

Sd/-

Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

07.10.2020

mmi/ssm

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To

1.The Deputy Superintendent of Police,
Bargur,
Krishnagiri District.

2.The Inspector of Police,
Pochampalli Police Station,
Krishnagiri District.

3.The Public Prosecutor,
High Court, Madras.

+lcc to Mr.G.Murali, Advocate SR.32998

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