

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.02.2020

CORAM

THE HONOURABLE Mr. JUSTICE R. MAHADEVAN

Crl.R.C.No.1436 of 2019

Rani

... Petitioner

Vs.

1. Inspector of Police,
Anti Vice Squad-I, Chindadripet,
Chennai
(Crime No.66 of 2019).

2. The Commissioner,
Directorate of Social Defence,
Government Protection Home,
Purasawakkam High Road,
Chennai-600 007.

3. Latha

... Respondents

Criminal Revision filed under Section 397 read with Section 401 Cr.P.C. seeking to set aside the order passed by the learned IV Metropolitan Magistrate at Saidapet, Chennai in C.M.P.No. 434 of 2019 dated 07.12.2019 by calling for the records and direct the second respondent being the Commissioner of Directorate of Social Defence, Government of Tamil Nadu, Purasawakkam, Chennai-7 to hand over the victim girl under the custody of the petitioner.

For petitioner : Mr.J.William Shakesphere

For respondents: Mr.K.Prabakar,

Additional Public Prosecutor
for R1 and R2

ORDER

The facts of the case are that on 21.11.2019, the first respondent- Inspector of Police, registered a case in Crime No.66 of 2019 under Sections 3(2)a, 4(1) and 5(1)a of the Immoral Traffic (Prevention) Act, pursuant to a search conducted at River Beauty Care, No.45/11, Shanthinikeythan Colony, Anna

Nagar West Extn., Chennai, and rescued one Latha under Section 15 of the Act and produced her before the IV Metropolitan Magistrate, Saidapet, Chennai on 22.11.2019. The victim woman was ordered to be subjected to Medical Examination and was also ordered to be accommodated in the Government Vigilance Home, Mylapore, Chennai as interim custody. While so, the petitioner herein/ mother of the victim, filed a petition in Cr.M.P.No.434 of 2019 in AVS Cr.No.66 of 2019 under Section 17(2) of the Immoral Traffic (Prevention) Act, for intermediate custody of the victim woman. The said petition was dismissed with certain directions, by way of passing the impugned order, on the ground that there is no material available to show that the immoral activities of the victim had undergone a change. Hence, this Criminal Revision Case.

2.The learned counsel for the petitioner has submitted that the Court below had failed to consider the petitioner's petition for custody of the victim woman, in a proper perspective. The Court below ought to have considered the family situation of the petitioner, as the petitioner's husband is a mentally retarded person and that the victim woman has a female child aged 6 years and the petitioner is the only person to look after the entire family. It is finally submitted that neither the probationers' report was considered properly nor the petitioner and the victim woman's plea were considered by the Court below and the petition was dismissed on frivolous grounds, leaving the life of the victim woman in jeopardy.

3.This Court has also heard the submissions of the learned Additional Public Prosecutor on the submissions made by the learned counsel for the petitioner.

4.The Court below ordered notice to the Police authorities to ascertain the genuineness, competence, relationship status of the victim woman with the petitioner and pursuant to the same, the Probation Officers from Division IV, Egmore, Chennai as well as the Probation Officer, Division-3, Tamil Nadu Prison Department, Egmore, Chennai and the Probation Officer, Thiruvannamalai, have submitted their report. The victim was produced before the Court and she identified the petitioner as her mother. Thereafter, "in-camera" proceedings were held and during the enquiry, the victim woman stated that due to family circumstances, she accepted to do immoral activities in the said parlour and she also admitted that previously in the year 2018, she was secured by the AVS police for the same offence and her mother had taken custody of her through the Court. The explanations offered by the victim woman about her subsequent delinquency, was not convincing and hence the Court below rejected the petition filed by her mother and the victim woman was directed to be accommodated in the Government Protection

Home under Section 17(4) of the Act for a period of one year under the supervision of the Commissioner, Directorate of Social Defence, Government of Tamil Nadu with a further direction to provide proper care, guardianship, education, training, counselling, medical and psychiatric treatment to the victim woman during her stay in the Home. The second respondent / Commissioner was also directed to file a report once in two months about the progress made in rehabilitating the victim. Finally, the Court below directed the authorities to take suitable welfare measures for the victim woman as per the Government norms.

5. When this matter was taken up by this Court on 12.12.2019, the learned Additional Public Prosecutor, took notice for the respondents 1 and 2 and notice was directed to be issued to the third respondent, in addition to private service. Now, the learned counsel for the petitioner has filed an affidavit of undertaking duly signed by the petitioner herein stating that her daughter (victim woman) was working as housemaid in their locality and due to some misguidance, this sort of incident had occurred. She further stated that if her daughter is handed over to her custody, she will take her daughter to the native place. It is also stated that when she met her daughter, her daughter repented herself and that her daughter will not directly or indirectly involve in any immoral activities in future.

6. Taking note of the above undertaking affidavit given by the petitioner, the impugned order is set aside and the second respondent is directed to hand over custody of the victim woman, the third respondent herein, to the petitioner, but however, subject to the condition that the victim woman shall appear before the All Woman Police Station, Tiruvannamalai daily at 10.30 a.m., without fail. If the victim woman / third respondent violates the above condition, it will amount to cancellation of the above order granting custody of the third respondent to the petitioner.

7. The Criminal Revision Case is disposed of accordingly.

s/d-
Assistant Registrar (CS VIII)

True Copy

Sub-Assistant Registrar

KM

To

1.The Inspector of Police,
Anti Vice Squad-I, Chindadripet,
Chennai.

2. The Commissioner,
Directorate of Social Defence,
Government Protection Home,
Purasawakkam High Road,
Chennai-600 007.

3. The IV Metropolitan Magistrate,
Saidapet.

4.The Chief Metropolitan Magistrate
Egmore, Chennai

5.The Inspector of Police
All Women Police Station
Thiruvannmalai

6.The Public Prosecutor,
Madras High Court.

+1 Cc to Mr.J.William Shakesphere, sr 13758

Cr1.R.C.No.1436 of 2019

RV(CO)
SP(19/02/2020)

सत्यमेव जयते

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