



WEB COPY

H.C.P.(MD) No.942 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.11.2020

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

and

THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI

H.C.P. (MD) No.942 of 2020

P.Avudaiyappan

... Petitioner/Father of the detenu

-vs-

1.State, rep. by

The Superintendent of Police,
Tirunelveli District.

2.The Inspector of Police,

Thatchanallur Police Station,
Tirunelveli District.

3.Mahesh

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of habeas corpus directing the respondents 1 and 2 herein to secure the petitioner's daughter Muthumari, aged 28 years and Grandson Sabarish Girish aged 3-1/2 years, produce their before this Court and handover to the petitioner.

For Petitioner : Mr.K.Gokul

For Respondents : Mr.K.Dinesh Babu

Additional Public Prosecutor
(for R1 & R2)

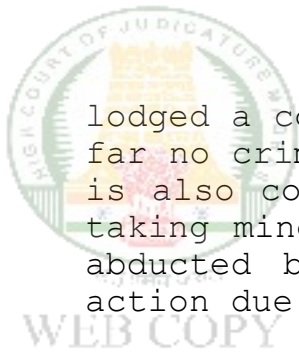
O R D E R

[Order of the Court was made by K.KALYANASUNDARAM, J.]

Heard Mr.K.Gokul, learned counsel for the petitioner and Mr.K.Dinesh Babu, learned counsel for the State.

2.This habeas corpus petition has been filed seeking a direction to the respondents 1 and 2 to secure the petitioner's daughter, by name, Muthumari, aged about 28 years and Grandson, by name, Sabarish Girish, aged about 3-1/2 years and produce their before this Court and handover their custody to the petitioner.

3.The learned counsel for the petitioner would argue that the first detenu Muthumari is living apart from her husband due to matrimonial dispute and she is found missing along with the second detenu from 23.10.2020. It is further contended that the petitioner



lodged a complaint with the second respondent on 24.10.2020. But so far no criminal case was registered and it is only in CSR stage. It is also contended that the third respondent is having the habit of taking minor girls and the petitioner's daughter is the fourth girl abducted by the third respondent, but the police are not taking action due to his influence.

4.Per contra, the learned Additional Public Prosecutor would state that the petitioner's daughter eloped with the third respondent in the month of February 2020 and on the basis of the complaint of the petitioner, a criminal case in Crime No.105 of 2020 was registered by the Palayamkottai Police and they secured the detainee and the custody of the detainee was also handed over to the petitioner. As the second time, she left with the third respondent on 23.10.2020, for which, the petitioner lodged a complaint with the second respondent. Though originally, the case was in CSR stage, the second respondent has now registered a case in Crime No.1126 of 2020 on 05.11.2020. It is also stated that the first detainee alone had gone with the third respondent as second time on 23.10.2020 and at that time, the custody of the minor child viz., the second detainee was given to the petitioner's son in law.

5.The submission of the learned counsels would reveal that the first detainee had left with the third respondent as first time in the month of February 2020 and the second time in the month of October 2020. It is the submission of the learned Additional Public Prosecutor that the second detainee Sabarish Girish is now under the custody of his father.

6.Considering all these facts, this Court is of the opinion that the detainees are not in the illegal custody of the third respondent as alleged by the petitioner and hence, we find no merit in the habeas corpus petition and the same is dismissed. However, if any complaint is lodged against the third respondent with regard to kidnap, the first respondent is directed to look into the matter and take appropriate action in accordance with law.

Sd/-

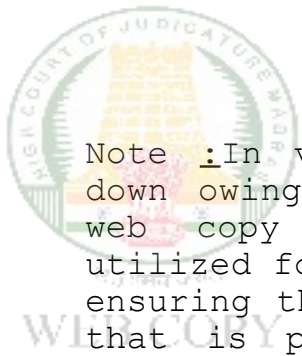
Assistant Registrar (P&A)

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/ /2020

Sub Assistant Registrar(CS)

skn



Note :In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To:

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

+1 CC to Mr.K.GOKUL, Advocate (SR-22920[F] dated 26/11/2020)

H.C.P. (MD) No.942 of 2020
24.11.2020

VB (10.12.2020) 3P 5C