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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.No. 3708 of 2021

A.Sesusheela

.. Petitioner

Vs.

1.The Registrar of Births and Deaths /
City Health Officer,
Corporation of Greater Chennai,
Rippon Building, Chennai - 600 003.

2.The Registrar of Births and Deaths,
Corporation of Chennai,
Zone-V, Sowcarpet, Chennai - 600 079.

.. Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India for issuance of writ of mandamus, directing the 1st respondent to recall the birth certificate of ARRON MATHEW issued and registered vide Birth Certificate No.B4933830695/2016 and Registration No.2016/05/052/008939/0 dated 15/11/2016 and re-issue a fresh birth certificate deleting the name of the father STEPHEN RAJ from the column of father and keeping it blank and permitting the petitioner to incorporate her initial "S" to be the initial of Arron Mathew in all his record and to carry out the said deletions and amendment in the birth register maintained by the 2nd respondent office within a stipulated time.

For Petitioner : Mr.S.Vasanth

For Respondents : Mrs.P.T.Ramadevi

Standing Counsel

O R D E R

The case of the petitioner is that she was subjected to forcible sexual relationship with one Stephen Raj and on account of which, she became pregnant and gave birth to a male child in RSRM Government Hospital on 18.10.2016 and the child was named as Aaron Mathew. The petitioner has also gave a complaint



regarding the same and a case in Crime No.19 of 2016 was registered on the file of the All Women Police Station, Madhavaram.

2. In the said case, a quash petition has been filed in CrI.O.P.No.3638 of 2017 before this Court to quash the proceedings pending against him in Crime No.19 of 2016 and this Court has also disposed of the same by quashing the above said FIR on 07.08.2017 based on the memorandum of compromise arrived between the parties and in Clause 9 of the Memorandum of compromise, the parties have agreed in the following terms:-

"All the petitioners including the 1st petitioner therein gave consent to the Intervenor / Defacto Complainant Seshu Sheela to alter the details given in the Birth Certificate vide B4933830695/2016 and Registration NO.2016/05/052/008939/0 dated 15/11/2016 issued by Greater Chennai Corporation, of the unnamed baby boy born to her on 18/10/2016 at RSRM Hospital so as to exclude the name shown as father of the said baby boy in the said certificate and accordingly the said Seshu Sheela is at full liberty to incorporate her name as the initials of the name of the said baby boy in all educational certificates, passport, Aadhar Card, ration card, bank pass books and other Identity Cards."

3. Subsequent to the order of this Court made in CrI.O.P.No.3638 of 2017 dated 07.08.2017, the petitioner has made a representation to exclude the name mentioned as her father in birth Certificate No. B4933830695/2016 and Registration No.2016/05/052/008939/0 dated 15/11/2016. The Superintendent, RSRM Hospital vide his communication dated 29.09.2018 informed the petitioner to approach the 2nd respondent as per the Tamil Nadu Registration of Birth and Death Rules, 2000. The petitioner has also made a representation to the 2nd respondent on 23.11.2018 along with the order copy of this Court made in CrI.O.P.No. 3638 of 2017 but the same has not been considered and therefore, this writ petition has been filed.

4. Mr.S.Vasanth, learned counsel appearing for the petitioner has relied upon the order of the Hon'ble Supreme Court in ABC Karuna Purti Vs. State (NCT of Delhi) and also the order passed by this Court in CrI.O.P.No. 3638 of 2017 dated 07.08.2017. The releavant portion in the judgment of the Hon'ble Supreme Court in ABC Karuna Purti Vs. State (NCT of Delhi), which extracted hereunder:-

"20. We think it necessary to also underscore the fact that the Guardian Court as well as the High Court which was in seisin of the Appeal ought not to have



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lost sight of the fact that they had been called upon to discharge their parens patriae jurisdiction. Upon a guardianship petition being laid before the Court, the concerned child ceases to be in the exclusive custody of the parents; thereafter, until the attainment of majority, the child continues in curial curatorship. Having received knowledge of a situation that vitally affected the future and welfare of a child, the Courts below could be seen as having been derelict in their duty in merely dismissing the petition without considering all the problems, complexities and complications concerning the child brought within its portals.

21. The Appeal is therefore allowed. The Guardian Court is directed to recall the dismissal order passed by it and thereafter consider the Appellant's application for guardianship expeditiously without requiring notice to be given to the putative father of the child."

5. The learned counsel for the petitioner would further submit that the biological father, the accused Stephen Raj has filed an affidavit in the form of memorandum of compromise in CrI.O.P.No.3638 of 2017 that he is not having any objection to remove his name as father of the child in the birth certificate and in any other certificates.

6. In view of the above observations, this writ petition is disposed of with a direction to the respondents to consider the case of the petitioner in the light of the orders passed by the Hon'ble Supreme Court as well as this Court as stated supra within a period of eight weeks from the date of receipt of a copy of this order. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

kkn

1.The Registrar of Births and Deaths /
City Health Officer,
Corporation of Greater Chennai,
Rippon Building, Chennai - 600 003.



2.The Registrar of Births and Deaths,
Corporation of Chennai,
Zone-V, Sowcarpet, Chennai - 600 079.

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+2ccs to M/s.G.Daisy John, Advocate, sr no.14531
+1cc to M/s. P.T.Ramadevi, Advocate, sr no.14506

W.P.No. 3708 of 2021

PMK (CO)
RMP (08/04/2021)