



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 23.11.2021

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

AND

THE HONOURABLE Mrs.JUSTICE R.HEMALATHA

H.C.P.No.1895 of 2020

Babu

...Petitioner

Vs.

1.The Superintendent of Police
NH-46 Phase 1, Sathuvachari
Vellore, Vellore District

2.The Inspector of Police
Ambur Town Police Station
Vellore, Vellore District

3.Shoban Babu

...Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a writ of habeas corpus directing the 2nd respondent to produce the detainee viz., Divya, D/o.Babu, aged about 17 years, before this Court from the illegal custody of the 3rd respondent and hand over her custody to the petitioner.

For Petitioner : Mr.C.Vinodhkumar

For R1 and R2 : Mr.R.Muniyapparaj
Additional Public Prosecutor

O R D E R

[Order of the Court was made by P.N.PRAKASH, J.]

It is the case of the petitioner that his daughter viz., Divya went missing from 22.09.2020 and that she is in the illegal custody of the 3rd respondent. It is the grievance of the petitioner that the police were not taking effective steps to secure her and therefore, he has filed this habeas corpus petition.

2. On 01.03.2021, we passed the following order :

"It is the case of the petitioner that his daughter Divya, aged about 17 years, is in the illegal



WEB COPY

custody of the third respondent and that the police are not taking effective steps to secure her.

2. Today, Mr.S.Thirumal, Inspector of Police, Ambur Town Police Station, Thirupathur District is present.

3. The Inspector of Police, Ambur Town Police Station, Thirupathur District, has already filed a status report dated 01.12.2020. A reading of the status report shows that Divya was in love with the third respondent, who is a married man with children and that she has eloped with him.

4. On instructions, learned Additional Public Prosecutor submitted that effective steps are being taken to secure the alleged detainee. If the police secures the alleged detainee, she may be produced in Ambur Town Police Station Crime No.1830 of 2020 before the Judicial Magistrate, Ambur, under intimation to the petitioner and the learned Magistrate shall pass appropriate orders of custody in accordance with law.

Post the matter on 19.04.2021."

3. Today, Mr.R.S.Sivakumar, Sub-Inspector of Police, Ambur Town Police Station and the petitioner are present before this Court. The police produced Divya before us with her three months infant.

4. On instructions, the learned Additional Public Prosecutor submitted that Divya had eloped with the 3rd respondent, who is already a married person with two children and now, she has got a child through him. He further submitted that the police secured her on 10.11.2021 and produced her before the learned Judicial Magistrate, Ambur, on the same day i.e., on 10.11.2021 and the police also altered the FIR in Crime No.1830/2020 from Section 366-A IPC to Sections 363, 366, 366-A and 376(2)(n) IPC read with Sections 4 and 5(i) and (ii) of the POCSO Act, 2012 and arrested the 3rd respondent and he has been remanded in judicial custody; since the offences under the POCSO Act have been added, Divya was initially produced before the learned Judicial Magistrate, Ambur, who, in turn directed her production before the Special Court for POCSO Act Cases, Vellore; accordingly, the police produced her before the Special Court for POCSO Act Cases, Vellore on 11.11.2021; on the orders of the Special Court, she was handed over to the CWC, Vellore; since she was not willing to go with her parents, the CWC, Vellore has directed her to be kept in SPRDC Women and Children Home, Thirupathur.



5. When we enquired Divya, she stated that she wants to go with the 3rd respondent and not with her parents. She stated that her date of birth is 22.11.2002 and as of today, she is not a minor.

WEB COPY

In view of the above, this habeas corpus petition is closed and the matter is left to the CWC and the POCSO Court to pass further orders in this regard.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

gya

To

1. The Judicial Magistrate
Ambur.
2. The Sessions Judge
Special Court for exclusive trial of cases under POCSO Act
Vellore
3. The Chairman
Child Welfare Committee
Govt. Children's Home for Boys Campus
MBT Road, Navalpur
Ranipet 632 401
4. The Superintendent of Police
NH-46 Phase 1,
Sathuvachari
Vellore, Vellore District
5. The Inspector of Police
Ambur Town Police Station
Vellore,
Vellore District.
6. The Public Prosecutor
High Court, Madras

Copy to

The Hon'ble POCSO Committee,
High Court, Madras.

H.C.P.No.1895 of 2020

KSM[co]
NSK 10/12/2021