



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.06.2021

CORAM:

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**THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM
and
THE HONOURABLE MR.JUSTICE G.ILANGO VAN**

H.C.P. (MD) No.653 of 2021

Sagaya Mary Regina ... Petitioner/Mother of detenue

-vs-

1.The Superintendent of Police,
Thoothukudi District.

2.The Sub Inspector of Police,
All Women Police Station,
Thoothukudi.

3.Sahayam Rayan

4.Lusiyal

5.Ferdin Rayan ... Respondents

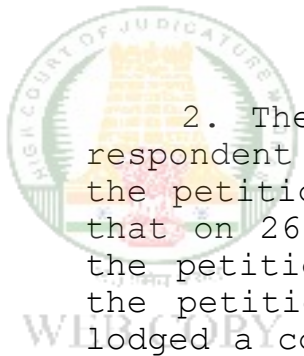
PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of habeas corpus, directing the respondents 1 & 2 to produce the body or person of the petitioner's son namely, Austin Rayan, aged 5 years before this Court and handover the custody to the petitioner.

For Petitioner	:	Mr.M.S.Parthiban
For R1 & R2	:	Mr.S.Ravi
		Standing Counsel for Government
For R3 to R5	:	Mr.G.Mohankumar

O R D E R

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

This habeas corpus petition has been filed seeking direction to the respondents 1 & 2 to produce the petitioner's son, namely, Austin Rayan, aged about 5 years before this Court and handed over his custody to the petitioner.



2. The petitioner is the mother of the detinue and the fifth respondent is his father. The respondents 3 & 4 are the in-laws of the petitioner and parents of the fifth respondent. It is alleged that on 26.03.2021 the respondents 3 & 4 entered into the house of the petitioner along with other two henchmen and after assaulting the petitioner, they kidnapped the detinue. In this regard, she lodged a complaint with the second respondent and the same has been registered in CSR No.218 of 2020. Since the respondents 1 & 2 did not look forward to solve the issue, the petitioner has filed the present habeas corpus petition.

3. Heard Mr.M.S.Parthiban, learned counsel appearing for the petitioner, Mr.S.Ravi, learned Standing Counsel for Government appearing for the respondents 1 & 2 and Mr.G.Mohankumar, learned counsel appearing for the respondents 3 to 5 and perused the materials available on record.

4. In the matter on hand, it is not in dispute that the petitioner and the fifth respondent are husband and wife and they are blessed with two children. The elder son being a detinue and the younger son is admittedly with the petitioner. It is the case of the petitioner that on 26.03.2021 the respondents 3 & 4 along with two other henchmen had kidnapped the detinue.

5. It is the submission of the learned Standing Counsel appearing for the respondents 1 & 2 that the petitioner lodged a complaint with Valliyur All Women Police Station on 26.08.2020 and the same was registered in CSR.No.238 of 2020. During investigation, the petitioner and the fifth respondent have entered into a compromise by which the detinue was permitted to live with the fifth respondent while the younger son was allowed to live with the petitioner. In view of the compromise between the parties, the complaint was closed on 31.08.2020. The same argument was adopted by the counsel for the respondents 3 to 5. According to the learned counsel for the respondents 3 to 5, the petitioner suppressing the material facts, has filed this habeas corpus petition with false averments and hence, she is not entitled for any relief.

6. The petitioner and the learned counsel appearing for the petitioner would state that the petitioner was forcibly taken to police station and her signature was obtained in the compromise deed, dated 31.08.2020. This allegation of the petitioner and her counsel does not found place in the affidavit filed in support of the habeas corpus petition. That apart the detinue is in the custody of his natural guardian, the fifth respondent herein. So, we are not inclined to entertain this habeas corpus petition.



7. In the light of the above, this habeas corpus petition is dismissed with liberty to the petitioner to work out her remedy before the concerned Civil Forum. No costs.

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// True Copy //

Sd/-

Assistant Registrar (CS-I)

/ /2021

Sub Assistant Registrar(CS)

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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,
Thoothukudi District.

2.The Sub Inspector of Police,
All Women Police Station,
Thoothukudi.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.G.MOHAN KUMAR, Advocate (SR-18758[F] dated 04/06/2021)

H.C.P. (MD) No.653 of 2021

02.06.2021

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