



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.07.2021

CORAM:

**THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM
and
THE HONOURABLE MR.JUSTICE B.PUGALENDHI**

H.C.P. (MD) No.1066 of 2021

Deiventhiran ... Petitioner/ Husband of Detenue
vs.

1. The State represented by the
Superintendent of Police,
District Superintendent of Police Office,
Sivagangai 630 562.
2. The Deputy Superintendent of Police,
Deputy Superintendent of Police Office,
Manamadurai 630 606.
3. The Inspector of Police,
Manamadurai Police Station,
Sivagangai District 630 606.
4. Mr.Athilingambose
5. Mr.Jahanhir
6. The Director,
Tamil Nadu Social Welfare Department,
Child Care and Old Age Home,
Perunkudi Panjathu,
Mathukupatti Post,
Sivagangai District. ... Respondents

PRAYER : Petition is filed under Article 226 of the Constitution of India praying for the issue of a Writ of Habeas Corpus, to direct the respondents 1 to 3 to produce the person or body of the petitioner's wife namely Evangelin Grace, daughter of Enenezer Eames, aged about 19 years old before this Court and set her at liberty.



For Petitioner : Mr.R.Senthilkumar

For Respondents : Mr.S.Ravi

Standing counsel for Government

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O R D E R

(Order of the Court was made by B.PUGALENDHI,J.)

This habeas corpus petition has been filed for a direction to the respondents 1 to 3 to produce the petitioner's wife viz., Evangelin Grace, aged about 19 years, before this Court and set her at liberty.

2. The petitioner claiming to be the husband of the detenu filed this Habeas Corpus Petition claiming that both the detenu and the petitioner loved each other and they also married on 28.07.2021 at Thiruvettai Ayyanar Temple, Kodumalur Village, Ramanathapuram District. On the complaint of the detenu's parents, the Manamadurai Police has conducted an enquiry and considering the age of the petitioner that he is only 20 years and 11 months and he has not attained the age of 21 years and the detenu has also refused to go with the petitioner, the detenu was referred to the Home and she is now confined at 6th respondent Home.

3. Today, when the matter is taken up for hearing, Mr.S.Ravi, learned Standing counsel appearing for the State, on instructions would submit that since no valid marriage was taken place and there is no rightful person claiming the custody of the detenu, for the safety of the detenu, she was referred to the sixth respondent Home.



He would further submit that the detenu and the petitioner belonging to different communities and there is a scope for communal violence and in order to avoid the communal violence also, the detenu was referred to the sixth respondent Home.

4. In support of the Habeas Corpus Petition, the petitioner has also filed a School Leaving Certificate of the detenu viz., Evangelin Grace and that shows the date of birth of the detenu is 31.03.2003.

5. Admittedly, the detenu is 19 years and above, however, the petitioner is 20 years and 11 months. Even there was any marriage solemnised between the petitioner and the detenu, as it is a voidable one. At the same time, the detenu, who is a major, cannot be confined in the sixth respondent Home against her wish and if any responsible person either the petitioner's parents or any other responsible person sought for custody, the detenu cannot be detained against her wish in the sixth respondent Home. Therefore, she is set at liberty. Accordingly, this Habeas Corpus Petition is allowed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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.

<https://hcservices.ecourts.gov.in/hcservices/>



To

- 1.The Superintendent of Police,
District Superintendent of Police Office,
Sivagangai 630 562.
- 2.The Deputy Superintendent of Police,
Deputy Superintendent of Police Office,
Manamadurai 630 606.
- 3.The Inspector of Police,
Manamadurai Police Station,
Sivagangai District 630 606.
4. The Director,
Tamil Nadu Social Welfare Department,
Child Care and Old Age Home,
Perunkudi Panjathu,
Mathukupatti Post,
Sivagangai District.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

ORDER MADE IN
H.C.P. (MD) No.1066 of 2021
30.07.2021

GC (16/08/2021) 4P 6C