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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.02.2022

Coram

THE HONOURABLE MR. JUSTICE P.N.PRAKASH
and
THE HONOURABLE MR. JUSTICE A.A.NAKKIRAN

H.C.P.No.268 of 2022

Yasmin
W/o.Mohan

... Petitioner

Vs.

State represented by:-

- 1.Hon'ble Chairperson
Child Welfare Committee,
Royapuram, Chennai - 13.
- 2.The Inspector of Police,
G-1 Vepery Police Station,
Chennai - 600 007.

... Respondents

Habeas Corpus Petition filed under Article 226 of the Constitution of India praying to issue a writ of habeas corpus directing the respondents to produce her children viz., Sharmila d/o.Karthick, aged about 11 years and Sabari s/o.Mohan, aged about 2½ months, before this Court, who are now under the custody of the first respondent and hand over their custody to the petitioner.

For Petitioner :Mr.A.Nirmal Kumar

For Respondents:Mr.R.Muniyapparaj
Additional Public Prosecutor

ORDER

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

This petition has been filed seeking a direction to the respondents to produce her children viz., Sharmila d/o.Karthick, aged about 11 years and Sabari s/o.Mohan, aged about 2½ months,



before this Court, who are now under the custody of the first respondent and hand over their custody to the petitioner.

2. It is the case of the petitioner that she was married to one Karthikeyan and through him, she has a daughter Sharmila, who is 11 years old and she was studying fourth standard in the Alpha Matriculation Higher Secondary School, Redhills. Since Karthikeyan had deserted her, she got married to one Mohan and through him, she delivered a child on 21.11.2021 in the RSRM Hospital, Royapuram. It is alleged by the petitioner that she was arrested by the second respondent in Crime No.893 of 2021 on 29.11.2021 for the offences u/s.80, 81 and 87 of the Juvenile Justice (Care & Protection) Act, 2015 and thereafter, she was released on bail by the Principal Sessions Court, Chennai, in Crl.M.P.No.23120 of 2021 on 04.01.2022. On release, it is her contention that both her children are in the illegal custody of the first respondent, who is not revealing the whereabouts of the children. On these allegations, the present petition has been filed.

3. When the matter came up for admission on 18.02.2022, we passed the following order:

'It is the allegation of the petitioner that her son Sabari, aged about 2½ months, has been illegally taken away by the first respondent and the first respondent is not granting the custody of the child.

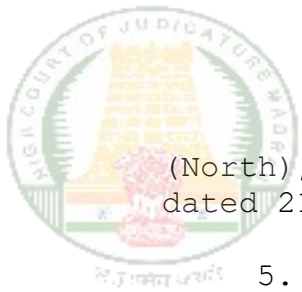
2. Today Ms.Lalitha, Member, Child Welfare Committee (CWC), Chennai and Mr.Kannan, Inspector of Police, Vepery Police Station, Chennai, are present before this Court via video conferencing.

3. Ms.Lalitha, Member, CWC, submitted that the child Sabari is now in the custody of Child Care Institution, Balamandir, T.Nagar, on the orders of the CWC, Chennai.

4. We direct the CWC, Chennai, to file their report along with the orders passed by them before this Court on 21.02.2022.

Post the matter on 21.02.2022.'

4. Today, Mr.R.Kannan, Inspector of Police, Vepery Police Station, is present and has filed a status report dated 21.02.2022. Similarly, Mrs.N.Lalitha, Child Welfare Committee



(North), Chennai, is present and she has filed a status report dated 21.02.2022.

5. A reading of the status reports shows totally a different story. It is seen that the petitioner appeared before the second respondent police on 27.11.2021 and gave a complaint stating that on account of her poverty she came forward to sell her son Sabari to one Sivakumar; pursuant to that on 25.11.2021, she was asked to come with the child near Saravana Stores at Purasaiwalkam at 01.00 p.m. Accordingly, when the petitioner went, the said Sivakumar came along with one Jayageetha and three unknown persons, received the child and gave a bag containing cash. While she was returning home in an auto-rickshaw with the bag, she was waylaid by two unknown persons near Vyasarpadi, who snatched away the bag and fled. On these allegations, the Vepery police registered a petition enquiry in C.S.R.No.556 of 2021 and started conducting enquiry. The Vepery police also requested the services of the Child Welfare Committee (North), Chennai, to assist them. However, during the course of enquiry, it came to light that the petitioner had sold the child for Rs.3,20,000/- to Sivakumar and after having received money, she has created a drama as if the money was snatched away from her while she was returning home. The police were able to recover Rs.1,14,000/- from the residence of the petitioner. On the complaint of Mrs.N.Lalitha, Member of Child Welfare Committee, the police registered a case in Crime No.893 of 2021 for the offences u/s.80, 81 and 87 of the Juvenile Justice (Care & Protection) Act, 2015, arrested the petitioner and also Sivakumar, Jayageetha and Dhanalakshmi and remanded them in custody.

6. From the report of Mrs.N.Lalitha, Member of Child Welfare Committee (North), Chennai, it is seen that the two children of the petitioner are now lodged in safe custody, viz., Sharmila is in Sevasadan, Chetpet and Sabari is in Balamandir, T.Nagar, on the permanent order of Child Welfare Committee dated 06.01.2022. She further stated that the same group is involved in child trafficking and some of the accused who have been arrested in Vepery P.S.Crime No.893 of 2021 have also been arrested in M4 Redhills P.S. Crime No.44 of 2022

7. On a conspectus of the facts obtaining in this case, we are convinced that this is not a case of illegal detention of the children for issuance of a writ of habeas corpus inasmuch as there are prima facie materials to show that trafficking of the children, which necessitated the interference of the Child Welfare Committee and on the orders of the Child Welfare



Committee, the children are now in the Homes stated above. A copy of the status report along with various orders passed by the Child Welfare Committee have also been furnished to the learned counsel for the petitioner.

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Since there is no illegal detention of the children, this Habeas Corpus Petition is closed. It is open to the petitioner to work out her remedy in the manner known to law.

SD/-
ASSISTANT REGISTRAR

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SUB ASSISTANT REGISTRAR

gm
To

- 1.The Chairperson,
Child Welfare Committee,
Royapuram, Chennai - 13.
- 2.The Inspector of Police,
G-1 Vepery Police Station,
Chennai - 600 007.
- 3.The Public Prosecutor,
High Court, Madras.

+2cc to M/s.N.Lalitha, Advocate Sr.11845

H.C.P.No.268 of 2022

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