



Order dated : 11.10.2022

HCP No.2001 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.10.2022

Coram

THE HONOURABLE MR. JUSTICE P.N.PRAKASH

and

THE HONOURABLE MR. JUSTICE RMT. TEEKAA RAMAN

H.C.P.No.2001 of 2022

Pazhanimalai

S/o.Subramaniyan

... Petitioner

Vs.

1.The Superintendent of Police,
Villupuram District,
Villupuram.

2.The Inspector of Police,
All Women Police Station,
Villupuram District.

3.Vishu
S/o.Narayanan

... Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus directing the respondents 1 and 2 to produce the petitioner's daughter, namely, Kavya d/o.Pazhanimalai, aged about 17 years, or her body before this Court and handover her custody to the petitioner forthwith.



Order dated : 11.10.2022
HCP No.2001 of 2022

For Petitioner : Ms.R.Raji

For Respondents : Mr.R.Muniyapparaj
Additional Public Prosecutor [R1 & R2]

For Detenue : Mr.T.Elumalai

ORDER

[Made by **P.N.PRAKASH, J.**]

It is the case of the petitioner that his daughter Kavya, aged about 17 years, is in the illegal custody of third respondent and that police are not taking effective steps to secure her.

2. Today, Ms.M.Kalaiselvi, Inspector of Police, All Women Police Station, Villupuram Police Station [Mobile No.94981 07444], is present and she produced Kavya before us.

3. On instructions, learned Additional Public Prosecutor submitted that, on the complaint given by the petitioner, a case in AWPS-Villupuram Crime No.68 of 2022 was registered on 06.08.2022 u/s.366-A IPC against the third respondent. On 10.09.2022, the police secured Kavya and the third



Order dated : 11.10.2022

HCP No.2001 of 2022

WEB COPY

respondent. Thereafter, the police altered the FIR in Crime No.68 of 2022 by including the penal sections under the POCSO Act. They also placed the third respondent under arrest on 10.09.2022 and he was sent to judicial custody. Kavya was produced before the Child Welfare Committee, Villupuram. Since she was not willing to go along with her parents, she was lodged in the Government Children's Home, Villupuram. While so, the parents of the third respondent filed an application before the Child Welfare Committee seeking custody of Kavya and after due enquiry, it appears that the Child Welfare Committee, Villupuram, by order dated 23.09.2022, has handed over custody of Kavya to the parents of the third respondent. Thus, Kavya is not in the illegal custody of anyone as of now and that she is in the custody of the parents of the third respondent pursuant to the order passed by the Child Welfare Committee, Villupuram.

4. Of course, the order dated 23.09.2022 can be challenged in appeal u/s.101 of the Juvenile Justice (Care & Protection of Children) Act, 2015. A photocopy of the order is furnished to the learned counsel for the petitioner across the bar. The petitioner may file an appeal, if so advised, u/s.101 of the



Order dated : 11.10.2022

HCP No.2001 of 2022

Juvenile Justice (Care & Protection of Children) Act, 2015, within thirty [30] days from today, with the photocopy of the order.

5. Learned Additional Public Prosecutor further submitted that the petitioner filed the present petition on the strength of a birth certificate, which shows that the date of birth of the Kavya is 18.10.2005, whereas, the parents of the third respondent have with them a transfer certificate, which shows her date of birth as 25.04.2002. This is again a disputed question of fact, which cannot be gone into a Habeas Corpus Petition and it is left open to the parties to urge this in the appeal u/s.101 of the Juvenile Justice (Care & Protection of Children) Act, 2015.

Accordingly, this Habeas Corpus Petition is closed with the above observation.

[PNP, J.] [TKR, J.]
11.10.2022

Index: Yes/No
gm



Order dated : 11.10.2022

HCP No.2001 of 2022

To

WEB COPY

- 1.The Superintendent of Police,
Villupuram District,
Villupuram.
- 2.The Inspector of Police,
All Women Police Station,
Villupuram District.
- 3.The Public Prosecutor,
High Court, Madras.

P.N.PRAKASH, J.
and



WEB COPY



Order dated : 11.10.2022

HCP No.2001 of 2022

RMT. TEEKAA RAMAN, J.

gm

H.C.P.No.2001 of 2022

11.10.2022