



HCP(MD)No.1082 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 08.07.2022

CORAM

The Honourable Mr. Justice **P.N.PRAKASH**
and
The Honourable Mrs. Justice **R.HEMALATHA**

H.C.P.(MD)No.1082 of 2022

A.Sudha Maheswari

.. Petitioner / Sister of
the detenue

Vs.

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

2.The Inspector of Police,
All Women Police Station,
Pudukottai, Thoothukudi District

3.The Superintendent
Muthukuviyal Women Home and Hostel
Opposite to District Court,
Thoothukudi District.

.. Respondents

Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus to direct the respondents No.1 and 2 to produce the body or person of the petitioner's younger sister namely Muthulakshmi (detenue) D/o.Mupidathi aged about 19 years before this Court and set her at liberty.

For Petitioner : Mr.M.Prabhu

For Respondents : Mr.T.Senthilkumar
Additional Public Prosecutor



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ORDER

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

For the sake of anonymity, the detinue in this case is referred to as “X”. It is the case of the petitioner that her sister “X” aged 19 years, was sexually abused, in connection with which, a case in Pudukottai All Women Police Station Crime No.1/2019 was registered on 01.03.2019 against the petitioner's mother and one Anbalagan, who is said to have abused the girl. During the course of investigation, it was found that “X” had conceived. However, the foetus was aborted and on the orders of the Child Welfare Committee, “X” was lodged in the third respondent hostel, where she continues to stay even now. Alleging that X is in the illegal custody of the third respondent, the present habeas corpus petition has been filed.

2.Today, Mrs.A.Ramalakshmi, Inspector of Police, Ms.S.Nagapushpam, WHC 870, All Women Police Station, Pudukottai are present. Ms.A.Muthulakshmi, (Assistant), Annai Sathya Ammaiyyar Memorial Home for Destitute Children, Nilaikundam, is present. “X” was produced before us. When we enquired “X”, she stated that she is doing her



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12th standard and that she is not in the illegal detention of the third respondent. She further stated that she does not want to go to the petitioner and wants to continue her studies.

3. The learned Additional Public Prosecutor submitted that the investigation in Crime No.1/2019 has been completed and a final report has been filed in Spl.C.C.No.25/2020 in the Special Court for POCSO cases, Tuticorin against the mother of “X” and Anbalagan and the case is ripe for trial. “X” should have to give evidence in that case and therefore, it would not be possible to shift her from the third respondent hostel or permit free access to her, because she could be intimidated and turned hostile. Therefore, we find “X” is not in the illegal custody of the third respondent for issuance of a writ of Habeas Corpus. However, we direct the second and third respondents to ensure that sufficient protection is given to “X” and that she testifies in Spl.S.C.No.25/2020 before the Special Court for POCSO cases. Accordingly, the Habeas Corpus Petition is dismissed.

(P.N.P.,J.) (R.H.,J.)
08.07.2022

Internet : Yes
RR



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Opposite to District Court,
Thoothukudi District.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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and
R.HEMALATHA, J.

RR

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