



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Friday, the Thirtieth day of September Two Thousand and Twenty Two

PRESENT

WEB COPY

The Hon`ble Mrs.Justice J.NISHA BANU
and
The Hon`ble Mr.Justice N.ANAND VENKATESH

CRL MP(MD) No.11803 of 2022
IN
HCP(MD) No.598 of 2020

R.VENKATESH ... PETITIONER/ADOPTED FATHER

Vs

1 M.ZAINAB BEGAM ... 1ST RESPONDENT/PETITIONER

2 THE DISTRICT COLLECTOR
MADURAI, MADURAI DISTRICT.

3 THE SUB INSPECTOR OF POLICE
SEDAPATTI POLICE STATION, MADURAI DISTRICT.

4 THE CHAIR PERSON
THE CHILD WELFARE COMMITTEE,
GOVERNMENT OF TAMIL NADU,
MADURAI DISTRICT.

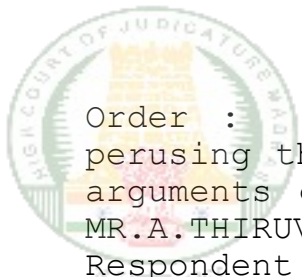
5 THE GUARDIAN
GLARIDIAN MERCY HOME,
ALAGUSIRAI VILLAGE,
THIRUMANGALAM TALUK,
MADURAI DISTRICT.

... RESPONDENTS/RESPONDENTS

Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to direct the Juvenile Justice Board, Madurai to conclude the Petition in Cr.MP.No.1092 of 2020 filed by the Petitioner, as per the orders passed by this Honble Court in HCP(MD).No.598 of 2020 dt.28.9.2020 within a time frame fixed by this Honble Court.

Prayer in HCP(MD).598/2020 :

To pass any order or direction or to issue any writ more particularly a writ in the nature of WRIT OF HABEAS CORPUS directing the respondents to produce petitioner minor daughter namely Farheena (detenue) aged about 10 months either in person or body before this Hon'ble Court and thereupon handover the custody to petitioner.



Order : This petition coming up for orders on this date, on perusing the petition filed in support thereof and upon hearing the arguments of M/S.BANUPRASATH P, Advocate for the petitioner and of MR.A.THIRUVADI KUMAR, Additional Public Prosecutor on behalf of the Respondent Nos.2 to 4, the court made the following order:-

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This petition has been filed for a direction to the Juvenile Justice Board, Madurai, to conclude the hearing of the petition filed in Cr.M.P.No.1092 of 2020 and to pass orders as directed by this Court through order dated 28.09.2020.

2.The petitioner is the adopted father of the minor child, viz., Farheena, who is aged about 2½ years. According to the petitioner, he and his wife Dhanalakshmi adopted the child. A complaint seems to have been made by some unknown persons before the Child Welfare Committee. Based on the same, the Child Welfare Committee lodged a complaint before the third respondent police and a case was registered in Crime No.36 of 2022 for an offence under Section 80 of the Juvenile Justice (Care and Protection of Children) Act, 2015, on 07.02.2020. In the said FIR, the petitioner and his wife were arrayed as accused along with other accused persons. Immediately after the registration of the FIR, the police secured the child and it was handed over to the fifth respondent, which is an authorized home.

3.The petitioner filed Habeas Corpus Petition seeking for a direction to the third respondent to produce the adopted daughter and to hand over the custody to the petitioner. When the case came up for hearing on 28.09.2020, this Court directed the Juvenile Justice Board to conduct an enquiry and to satisfy themselves as to whether the child will be properly brought up by the petitioner and if so, regularize the adoption and grant custody of the child.

4.Pursuant to the above order, a petition was filed before the Juvenile Justice Board in Cr.M.P.No.1092 of 2020. The grievance of the petitioner is that this petition has not been heard till date and the child remains in the home and hence, the present petition is filed.

5.Heard Mr.P.Banuprasath, learned counsel appearing for the petitioner and Mr.A.Thiruvadikumar, learned Additional Public Prosecutor appearing for the respondents.

6.It is seen from the records that the cousin brother of the petitioner viz., Kasi Viswanathan had also adopted a female child viz., Jithisha and they also faced a similar problem. They also filed a similar petition before this Court in CrI.M.P(MD)No.10395 of 2022 in H.C.P(MD)No.143 of 2020. This Court took into consideration the entire facts and circumstances of the case and came to a conclusion that the minor child was languishing in the home for no reason and she was almost in the verge of abandoning her in



lurch. In view of the same, taking into consideration the best interest of the child, this Court directed the custody of the child to hand over to the cousin brother and his wife. This Court also quashed the FIR registered against them in Crime No.36 of 2020.

7.The facts of the present case is exactly the same and the minor child unfortunately is also facing a very unfortunate situation and it is kept in the home for not fault of hers. Hence, the very same reasoning that was given by this Court in the earlier order passed on 01.09.2022, will equally apply to the facts of the present case also.

8.Mr.S.Saravana Kumar, Special Sub-Inspector, Sedapatti Police Station, Madurai District, was present at the time of hearing.

9.The learned Additional Public Prosecutor, on instructions, submitted that on enquiry, the police officer ascertained the fact that the petitioner and his wife are the adoptive parents of the child and they are visiting the child once in a week in the fifth respondent home and not even once, the natural parents have visited the child. This clearly shows that the adoptive parents are more interested in the welfare of the child and it will not be fair to keep away the child from them any longer. It will not be in the interest and welfare of the child to continue in the fifth respondent home and it requires the parental care from the petitioner and his wife, at this crucial age.

10.In view of the above, FIR in Crime No.36 of 2020 registered against the petitioner and his wife is hereby quashed. The petitioner and his wife are directed to go to the fifth respondent home and complete the formalities for taking custody of the child. There shall be a further direction to the petitioner and his wife to regularize the adoption by contacting biological parents viz., Mohammad Sadeq and Zainab Begam.

11.This Criminal Miscellaneous Petition is disposed of in the above terms.

sd/-
30/09/2022

/ TRUE COPY /

30/09/2022

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

1 THE DISTRICT COLLECTOR
MADURAI, MADURAI DISTRICT.

2 THE SUB INSPECTOR OF POLICE
SEDAPATTI POLICE STATION, MADURAI DISTRICT.

<https://www.madras.gov.in>



3 THE CHAIR PERSON
THE CHILD WELFARE COMMITTEE,
GOVERNMENT OF TAMIL NADU,
MADURAI DISTRICT.

4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1 CC TO MR.P.BANU PRASATH, Advocate (SR-48317[F] dated 30.09.2022)

ORDER

IN

CRL MP(MD) No.11803 of 2022

IN

HCP(MD) No.598 of 2020

Date :30/09/2022

NS

RS/VR/SAR.2 (30.09.2022) 4P-6C