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H.C.P.(MD)No.112 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.07.2023

CORAM:

**THE HONOURABLE MR.JUSTICE M.S.RAMESH
and
THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR**

H.C.P.(MD)No.112 of 2023

T.Natarajan

... Petitioner

vs.

1.The Superintendent of Police,
Pudukkottai District.

2.The Inspector of Police,
Aranthangi Police Station,
Aranthangi,
Pudukkottai District.

3.Prabakaran

... Respondents

Prayer :- Habeas Corpus Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Habeas Corpus, directing the respondents 1 and 2 to produce the body or person of the petitioner's minor daughter, aged about 16 years 6 months from the illegal custody of the third respondent before this Court and hand over the custody to the petitioner.

For Petitioner

: Mr.M.Suresh
for Mr.M.Gnanagurunathan

For Respondents 1 and 2

: Mr.R.M.S.Sethuraman
Additional Public Prosecutor



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ORDER

(Order of the Court was made by M.S.RAMESH, J.)

The petitioner is the father of the minor child, who was born on 16.06.2006, and now she is about 17 years old. When the minor daughter went missing on 06.12.2022 from the School, he had given a complaint before the second respondent herein, alleging that his daughter was taken away by the third respondent herein. His complaint came to be registered on 08.12.2022 in Crime No.710 of 2022 as 'Girl Missing' case under Section 5(l), 5(j)(ii) read with Section 6(1) of the Protection of Children from Sexual Offences Act and Section 9 of the Prohibition of Child Marriage Act, 2006.

2. Today, when the matter is called, the second respondent herein produced the petitioner's minor daughter, who is in her advanced stage of pregnancy [7 ½ months] and who was in the care of the third respondent. In support of the same, the learned Additional Public Prosecutor produced medical records of the petitioner's minor daughter, which ratifies her medical condition.

3. The petitioner's minor daughter informed before us that she had voluntarily left the petitioner's house in order to get married to the third respondent. She further stated that the third respondent herein had taken her, owing to her compulsion. She further claimed that she got married to the third respondent and the marriage was also consummated. She also apprehends that her parents are opposing



her marriage with the third respondent and forcing her to give the child to be born, in adoption to third parties and that they would arrange her marriage with some other person of their own community, which offer is not acceptable to her.

4. We have taken note of the fact that the petitioner's daughter is a minor and therefore, permitting her to be under the care and custody of the third respondent herein may not be proper. At the same time, the petitioner's daughter had very clearly stated that she does not intend to live with her parents.

5. In this background, by taking note of the fact that the petitioner's minor daughter is in her advanced stage of pregnancy and does not intend to reconcile with the petitioner, it would be appropriate to secure her care and custody with Child Welfare Committee, Old Government Hospital, Pudukkottai [Mobile:6380050181]. Accordingly, the care and custody of the petitioner's minor daughter, aged about 17 years, is directed to be handed over to the Child Welfare Committee, Old Government Hospital, Pudukkottai, forthwith. Such care and custody shall continue till the petitioner's minor daughter completes 18 years of age. Thereafter, it is open to the petitioner's daughter to decide under whose care and custody she intends to live with.



H.C.P.(MD)No.112 of 2023

WEB COPY

6. Incidentally, when complaints are received for an offence alleged to have been committed by an adolescent (16 to 18 years) and when such offence arises out of a love affair between the accused and the victim girl, the Director General of Police had issued a Circular, dated 30.04.2023, by giving certain guidelines. Among such guidelines, it is ordered that, (i) in POCSO Act cases, which arise out of a love affair between adolescents, the Station House Officers should not resort to a hasty arrest; (ii) instead, an inquiry should be conducted by sending a summon under Section 41(4) of Cr.P.C.; (iii) the details and reasons for not arresting the accused should be recorded; (iv) when the arrest of the accused persons in a POCSO Act case is imminent, the prior written permission of the District Superintendent of Police should be obtained and only then, the arrest should be effected and (v) in important POCSO Act cases, the higher officials should scrutinize the final report, particularly in cases where further action is dropped and appropriate advice should be given. The Circular also states that the City Police Commissioners and District Superintendent of Police should monitor the strict implementation of the aforesaid guidelines.

7. The second respondent herein shall bear in mind the aforesaid Circular of the Director General of Police, dated 30.04.2023, while conducting the investigation in Crime No.710 of 2022.



H.C.P.(MD)No.112 of 2023

8. In the light of the above directions, this Habeas Corpus Petition stands closed.

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NCC : Yes / No

Index : Yes / No

Note:- Issue order copy today.
smn2/RR

[M.S.R., J.]

[M.N.K., J.]

25.07.2023

Copy to:- The Child Welfare Committee,
Old Government Hospital,
Pudukkottai.
Mobile No.6380050181.

To

- 1.The Superintendent of Police,
Pudukkottai District.
- 2.The Inspector of Police,
Aranthangi Police Station,
Aranthangi,
Pudukkottai District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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M.S.RAMESH, J.
and
M.NIRMAL KUMAR, J.

SMN2 / RR

ORDER MADE IN
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DATED : 25.07.2023