

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

AND

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

H.C.P.(MD)No.191 of 2023

Sakthivel

... Petitioner / Father of the Detenue

Vs.

1.The Superintendent of Police,
Superintendent of Police Office,
Trichy District.

2.The Inspector of Police,
Jeeyapuram Police Station,
Jeeyapuram, Trichy District.

3.The Inspector of Police,
Thogaimalai Police Station,
Karur District.

...Respondents

(R3 is suo motu impleaded as per the order of this Court dated 20.03.2023)

PRAYER: Petition filed under Article 226 of the Constitution of India, to
issue a Writ of Habeas Corpus, directing the respondents to produce the

body or person of the detainee by name Abinaya, daughter of Sakthivel, aged about 17 years before this Court and hand over the custody of her to the petitioner.

For Petitioner : Mr.N.Balasubramanian
For R1 to R3 : Mr.A.Thiruvadi Kumar,
Additional Public Prosecutor

ORDER

(Order of the Court was made by ***R.SURESH KUMAR, J.***)

The petitioner, seeking production of his daughter, namely, Abinaya, aged about 17 years, has filed this Habeas Corpus Petition.

2.After notice, the girl was produced before this Court on 07.03.2023, where we directed to post the matter on 14.03.2023, as the learned Additional Public Prosecutor appearing for the respondents wanted to enquire with the matter further, where the claim was made by the detainee that there was a marriage solemnized between the detainee and one Gunal on 19.02.2023 at Thiruvanaikal Temple, Trichirappalli.

3.After having conducted enquiry, again the girl was produced before this Court on 14.03.2023, where it was noticed that the detainee girl was pregnant of about three months. Therefore, at that time definitely, she was minor.

4.This aspect has also to be looked into and in this context, further time was sought for by the respondents to investigate and report before this Court. Accordingly, on 20.03.2023, the case was again come up for hearing, where the statement recorded under Section 164 (5) Cr.P.C., before the learned Judicial Magistrate No.III, Trichy was produced before this Court, where the detainee girl has not revealed anything about any intimacy with the said Gunal.

5.In this context, it is to be noted that even on earlier occasion, ie., 15.11.2022, the detainee girl was missing. Therefore, his father gave a complaint. Pursuant to which, the girl seems to have appeared before the Inspector of Police, Thogaimalai Police Station, Karur District and it was also stated by the detainee girl in the said statement dated 16.03.2023

recorded before the Magistrate concerned that she was staying in her friend's house and she did not reveal anything about the intimacy or the relationship with the said Gunal. Therefore, what was enquired by the Inspector of Police, Thogaimalai Police Station, Karur District since has not been filed before this Court, we impleaded the said Inspector of Police, Thogaimalai Police Station as 3rd respondent in this petition by order dated 20.03.2023 and directed the 3rd respondent to file necessary statement that they have obtained from the girl, when she appeared before the 3rd respondent.

6.Today, when the case is taken up for hearing, the detenue girl appeared and the mother of the girl also appeared.

7.The medical report in the meanwhile obtained by the respondents from the concerned hospital has revealed that the girl is pregnant.

8.In this context, it is further to be noted that on 14.03.2023 when she was in the home, she had given a statement in the said home that when

she left her parental home in the earlier occasion ie., on 15.11.2022, she joined with the said Gunal and she claimed to had been residing with him at some of his relative's house in Perambalur and Trichy, where she had illegal intimacy with the said Gunal.

9.That apart today, when we enquired the detainee girl, she has revealed that in the second time when she was missing on 29.12.2022, she had gone to Chennai along with the said Gunal and she had been staying there with the said Gunal for atleast two months some time in January and February, 2023, where also they had been in illegal intimacy. All these aspects have not been revealed by the detainee girl in the statement recorded under Section 164(5) Cr.P.C., which she gave before the learned Judicial Magistrate No.III, Trichy on 16.03.2023.

10.These documents clearly reveal that the detainee girl though she was minor till 16.02.2023 had been with the said Gunal in illegal intimacy, probably, that might be the reason for the pregnancy, now has been revealed through the medical report.

11.In this context, the learned Additional Public Prosecutor appearing for the respondents has submitted that the First Information Report has been altered from the girl missing to Section 366 IPC and 5(1)(j) (2) r/w 6(1) POCSO Act and the investigation is on.

12.The detainee girl has further stated before us that even now she wants to go only with the said Gunal and in-laws of the detainee girl ie., the parents of the said Gunal and not with her mother or the petitioner, who is the father of the detainee girl.

13.Since the detainee girl has become major from 16.02.2023 and she claimed to have married that Gunal, after she become major and before which she also revealed that she had been in illegal intimacy with the said Gunal, all these aspects would reveal that as of now, the detainee girl is not in illegal custody. Since she become major and she wants to go with the said Gunal, we feel that recording her statements this Habeas Corpus Petition can be closed, however with a direction to the respondents to pursue the investigation as per the altered First Information Report for the

alleged offences as stated herein above and accordingly, proceed with the said investigation to reach its logical conclusion in accordance with law.

14. With this observation and direction, this Habeas Corpus Petition is closed by permitting the detenue girl to go with her matrimonial home as she desired.

(R.S.K., J.) & (K.K.R.K, J.)

27.03.2023

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

MYR

To

1. The Superintendent of Police,
Superintendent of Police Office,
Trichy District.

2. The Inspector of Police,
Jeeyapuram Police Station,
Jeeyapuram, Trichy District.

R.SURESH KUMAR, J.

AND

K.K.RAMAKRISHNAN, J.

MYR

3.The Inspector of Police,
Thogaimalai Police Station,
Karur District.

4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

H.C.P.(MD)No.191 of 2023

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