



H.C.P.(MD) No.40 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.06.2024

CORAM:

**THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA
and
THE HONOURABLE MR.JUSTICE K.RAJASEKAR**

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Muthu Kumar

... Petitioner

-VS-

- 1.The Superintendent of Police,
Virudhunagar District,
Virudhunagar.
- 2.The Deputy Superintendent of Police,
Sivakasi,
Virudhunagar District.
- 3.The Inspector of Police,
Sivakasi Town Police Station,
Virudhunagar District.
- 4.Madasamy

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of habeas corpus directing the respondents 1 to 3 to produce a body of person/detenu namely Leshalini, D/o.Muthukumar, aged about 17 years before this Court and hand over the custody to the petitioner.



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For Petitioner :Mr.M.Jothi Basu
For R1 to R3 :Mr.RMS.Sethuraman
Additional Public Prosecutor

ORDER

[Order of the Court was made by A.D.JAGADISH CHANDIRA, J.]

This Habeas Corpus Petition has been filed by father of the detenu seeking to produce the person or body of the petitioner's minor daughter namely xxxxxxxx aged about 17 years before this Court.

2. The case of the petitioner is that his minor daughter aged about 17 years was earlier missing on 08.02.2023 when she was 16 years 7 months and 14 days. Based on an earlier complaint, the respondent police had registered a case in Cr.No.61 of 2023 under 'Woman Missing' and that his daughter was secured on 22.02.2023. During the enquiry, it was found that his daughter was kidnapped by one Mariappan, S/o.Madasamy and that he had also sexual intercourse with her. After the investigation, the respondent police had filed the charge-sheet against the said Mariappan for the offence under Section 366 IPC and Section 9 of



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Prohibition of Child Marriage Act, 2006 and Sections 5(l) r/w 6 of Protection of Children from Sexual Offences Act, 2012. The case has also been taken up for trial before the Special Court for Exclusive Trial of POCSO Act Cases, Srivilliputhur in S.C.No.61 of 2023. While the trial was going on, the said Mariappan has once again kidnapped the petitioner's daughter on 09.12.2023. On 10.12.2023 the petitioner had given a complaint before the third respondent. Based on the complaint given by the petitioner, a case in Cr.No.435 of 2023 has been registered under 'Girl Missing'. Since no steps have been taken by the respondent police to secure the detenu, the petitioner has filed the present Habeas Corpus Petition.

3. The learned Additional Public Prosecutor appearing for the respondents 1 to 3 would submit that this is a case of second time elopement. The petitioner's daughter is a minor and that she is studying BBA first year in Government Arts College at Sivakasi. She had an affair with one Mariappan. Earlier he kidnapped the detenu and that a case was registered and the said Mariappan is facing trial. While so, the said Mariappan had once again kidnapped the detenu.



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4. The learned Additional Public Prosecutor further submitted that the detenu and the said Mariappan were traced at Hyderabad and they were secured and the said Mariappan was remanded into judicial custody and the respondents are taking steps to produce the detenu before the Child Welfare Committee. Since the Habeas Corpus Petition is pending, the girl is now produced before the Court.

5. We enquired the detenu. She submitted that the said Mariappan is known to her and that she had love affair with him and she had gone along with him on her own volition. She expressed her unwillingness to go along with her parents.

6. Therefore, we direct the third respondent to produce the detenu before the Child Welfare Committee, Virudhunagar District and the Child Welfare Committee, Virudhunagar is directed to pass appropriate orders in accordance with law with regard to the custody of the child.



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7. In view of the above, this Habeas Corpus Petition is closed. The petitioner is at liberty to approach the Child Welfare Committee regarding the custody of the child.

[A.D.J.C., J.] [K.R.S., J.]
03.06.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
am

To:

- 1.The Superintendent of Police,
Virudhunagar District,
Virudhunagar.
- 2.The Deputy Superintendent of Police,
Sivakasi,
Virudhunagar District.
- 3.The Inspector of Police,
Sivakasi Town Police Station,
Virudhunagar District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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