



H.C.P.(MD) No.661 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.06.2024

CORAM:

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

H.C.P.(MD) No.661 of 2024

K.Senthamarai

... Petitioner

-vs-

1.The Superintendent of Police
O/o.The Superintendent of Police
Sivagangai District

2.The Inspector of Police
All Women Police Station
Thirupathur, Sivagangai District

3.The Warden / Child Welfare Committee
Government Children Home for Girls
No.48, Colony
Sivagangai

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of habeas corpus directing the third respondent to produce the petitioner's minor daughter, namely, Vaishnavi, daughter of Karuppiah, aged about 17 years, before this Court and hand over the custody to the petitioner.



WEB COPY

H.C.P.(MD) No.661 of 2024

For Petitioner : Mr.P.Muthusamy

For Respondents : Mr.A.Thiruvadi Kumar
Additional Public Prosecutor

ORDER

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

The petitioner has filed this habeas corpus petition seeking a direction to the third respondent to produce her minor daughter XXXX, aged about 17 years, before this Court and hand over her custody with her.

2. The case of the petitioner is that her daughter is found missing and during search, it came to light that one Selvakumar had kidnapped her daughter and based on the complaint given her, the respondent – Police had registered a case in Crime No.5 of 2023 under Section 363 I.P.C. Later, the missing girl was secured and since it was found that she was subjected to sexual assault, the case was altered to one under Section 363 I.P.C., and Sections 5(I) and 6 of POCSO Act read with Sections 9 and 10 of the Child Marriage Act. The petitioner had earlier filed H.C.P.(MD) No.1022 of 2023 and on 16.08.2023 when the matter came up for hearing, the missing girl was produced before this Court and she expressed her unwillingness to go with the



H.C.P.(MD) No.661 of 2024

petitioner and therefore, this Court, by order dated 16.08.2023, directed the detinue to be entrusted with the Child Welfare Committee and the Child Welfare Committee was directed to afford necessary care and protection to the detinue till she becomes a major. The Child Welfare Committee was also directed to ensure that the detinue completes her school education. Thereafter, the petitioner had filed another habeas corpus petition in H.C.P. (MD) No.1364 of 2023, wherein this Court, by order dated 11.01.2024, had directed the detinue to be kept in the same home until her majority, since she was not inclined to go along with her mother. This Court had also directed the Child Welfare Committee to permit the sister of the detinue to see her in the home. Now, the detinue has expressed her willingness to join with her parents. Hence, the petitioner has filed this habeas corpus petition.

3. Learned counsel for the petitioner would submit that when the petitioner had earlier approached the Child Welfare Committee, she was orally informed that this Court in the earlier order had specifically directed the detinue to be kept in the home, till she attains majority and therefore, the Child Welfare Committee refused to hand over the custody of the detinue to the petitioner.



H.C.P.(MD) No.661 of 2024

WEB COPY

4. Learned Additional Public Prosecutor appearing for the respondents, while reiterating the above submissions of the learned counsel for the petitioner, on instructions, submitted that the second respondent enquired the detenue and on enquiry, she expressed her willingness to go along with her parents.

5. We have perused the earlier order of this Court dated 11.01.2024 passed in H.C.P.(MD) No.1364 of 2023, wherein, this Court in paragraph No.4 of the order, taking into consideration the submission made by the detenue, had passed the following order:

“4. In view of the statement made by the detenue, we are not inclined to send her with her mother. The detenue shall be kept in the same home until her majority. The 4th respondent may permit the sister of the detenue to see the detenue in the home.”

6. Now, it is reported that the detenue has expressed her willingness to go along with the petitioner. Therefore, we direct the petitioner to approach the Child Welfare Committee and file appropriate application seeking custody of her daughter and on filing such application, the Child Welfare Committee, after hearing the detenue, shall pass orders in accordance



H.C.P.(MD) No.661 of 2024

with law regarding handing over the detinue with the petitioner, as expeditiously as possible.

7. With the above direction, this habeas corpus petition is disposed of.

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

10.06.2024

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

krk

To:

- 1.The Superintendent of Police,
O/o.The Superintendent of Police,
Sivagangai District.
- 2.The Inspector of Police,
All Women Police Station,
Thirupathur, Sivagangai District.
- 3.The Warden / Child Welfare Committee,
Government Children Home for Girls,
No.48, Colony,
Sivagangai.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



H.C.P.(MD) No.661 of 2024

A.D.JAGADISH CHANDIRA, J.
AND
K.RAJASEKAR, J.

krk

H.C.P.(MD) No.661 of 2024

10.06.2024