



HCP(MD) No.549 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.05.2024

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

AND

THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

H.C.P(MD)No.549 of 2024

Kalayarasi

... Petitioner

-Vs-

1. The State rep. by,
The Superintendent of Police,
Pudukkottai District,
Pudukkottai.

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

3. The Inspector of Police,
Alangudi Police Station,
Alangudi,
Pudukkottai District.



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4. The Inspector of Police,
All Women Police Station,
Alangudi,
Pudukkottai District.

5. Praveen

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, directing the respondent Nos. 1 to 4 to produce body or person of the petitioner's female child the detenu, namely, Minor.Kayalivizhi, D/o.Rengasamy, aged about 17 years, under the illegal custody of the 5th respondent before this Court and hand over the custody to the petitioner.

For Petitioner : Mr.S.Krishnan

For R1 to R4 : Mr.RMS.Sethuraman
Additional Public Prosecutor

ORDER

[Order of the Court was made by R.N.MANJULA, J.]

This Habeas Corpus Petition has been filed by the mother of the detenu seeking to produce her daughter namely Kayalivizhi,



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D/o.Rengasamy, aged about 17 years, before this Court.

2. Heard Mr.S.Krishnan, learned counsel appearing for the petitioner and Mr.RMS.Sethuraman, learned Additional Public Prosecutor appearing for the respondents 1 to 4.

3. Mr.S.Krishnan, learned counsel for the petitioner submitted that when the fifth respondent kidnapped the minor daughter of the petitioner on 15.02.2024, based on the complaint given by the petitioner, the 3rd respondent police traced out the petitioner's daughter and registered an FIR against the fifth respondent in Crime No.46 of 2021 on 16.02.2024 on the file of the third respondent police for the offence under Sections 363 IPC and 5(h), 5(i) r/w 6(1) of the Protection of Children from Sexual Offences Act, 2012 and the same was transferred to the fourth respondent police and investigation is going on. The 3rd respondent arrested the 5th respondent and remanded him before Judicial Magistrate, Alangudi on 24.02.2024 and



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the petitioner's daughter was produced before the District Child Welfare Committee on 27.02.2024 and thereafter handed over the custody to the petitioner on condition that the petition shall produce the detenu once in a month till she attains majority. Thereafter, the 5th respondent came out on bail and again on 29.04.2024, he kidnapped the petitioner's daughter from her sister's house at knife point. Therefore, the petitioner lodged a complaint before the 2nd respondent, but the 2nd respondent did not take any fruitful steps to find out the petitioner's daughter. Hence, this petition.

4. When the matter is taken up for hearing today, the alleged detenu was produced before this Court. Her birth certificate was produced before this Court and it states that her date of birth is 10.09.2006 and hence, she has not attained majority. The petitioner is also present before this Court. However, the detenu expressed strong objection to go along with the petitioner though she admits that the petitioner is her mother.



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5. The detenu's parents appeared to have got some misunderstanding and they got separated. It is the allegation of the detenu that the mother has developed some illegal intimacy with a third person and she is being harassed by both of them. As she is in love with the 5th respondent, she went along with the 5th respondent on her own volition. Hence, she prefers to stay in the Children's Home instead of going along with her mother/petitioner herein. However, it is learnt that a criminal case is pending against the 5th respondent under the POCSO Act. In the above varied circumstances, it is appropriate to produce the detenu before the Child Welfare Committee, Pudukkottai and on her production the Child Welfare Committee shall decide the custody of the child by making an enquiry and by thoroughly appreciating the circumstances surrounding the child. The petitioner is at liberty to make her representation to the Child Welfare Committee when the child is produced before the Committee for conducting an enquiry.



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6. With the above direction, this Habeas Corpus Petition is closed.

[R.N.M., J.] & [C.K., J.]

22.05.2024

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

PJL

To

1. The Superintendent of Police,
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Pudukkottai.

2. The Inspector of Police,
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