



H.C.P.(MD) No.642 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.06.2024

CORAM:

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

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M.Lakshmi

... Petitioner

-VS-

1.The Superintendent of Police,
Thoothukudi District,
Thoothukudi.

2.The Inspector of Police,
Nazareth Police Station,
Nazareth,
Thoothukudi District.

3.The Chairman/Members,
Child Welfare Committee,
Saranalayam, Children Home,
89, Balabagya Nagar South,
Tirunelveli-627 001.

... Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of habeas corpus directing the respondents 1 and 2 to secure the detenu and produce the body or person of the detenu, a breastfed female child, aged about 1 year 3 months, before this Court, illegally devolved to the third respondent and handover the custody of the female child/detenu to the petitioner forthwith.

For Petitioner :Mr.B.Anandan

For Respondents :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 the mother of the detenu seeking to produce the person or body of the petitioner's female child aged about 1 year and 3 months before this Court, which is now in the custody of the Saranalayam, Children Home, Tirunelveli pursuant to the orders of the Child Welfare Committee, Tirunelveli.

2. The case of the petitioner is that she belongs to Schedule Tribe and she is married and she has got 5 children while so, she gave a birth to the 6th child on 21.03.2023. It is the further case that her child was illegally handed over



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to one Kannaiya and his wife with the help of the doctors in the hospital where she was admitted for delivery. Later, when the said Kannaiya has taken the baby to the Chettikulam Government Primary Health Centre for vaccination, the staff of the Health Centre has suspected the paternity of the child and they had given a complaint before the Palavoor Police Station. Based on the complaint, an enquiry was conducted by the Palavoor Police Station in C.S.R.No.192/2023. Finding that the said Kannaiya and his wife are not the biological parents, the child was placed before the Child Welfare Committee and based on the order of the Child Welfare Committee the child is now in the custody of the Saranalayam Home, Tirunelveli. Later, on the complaint given by the petitioner before the second respondent police a case in Cr.No.46/2023 has been registered against the accused for the offences under Sections 80 and 81 of the Juvenile Justice (Care and Protection of Children) Act 2015. During the investigation, the respondent police has taken the blood samples from the petitioner, her husband and the child and has now proved that the petitioner is the biological mother of the child. The petitioner had approached the third respondent orally, however, they have turned down the request of the petitioner. Therefore, the petitioner has filed the present habeas corpus petition.



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3. The learned Additional Public Prosecutor appearing for the respondents would submit that as per the investigation, the petitioner is the biological mother of the child. Based on the complaint given by the petitioner that her child was illegally handed over to one Kannaiya and his wife by the doctors who had performed the delivery, a case in Cr.No.46 of 2023 has been registered for the offence under Sections 80, 81 of the Juvenile Justice (Care and Protection of Children) Act 2015. During the course of investigation, the blood samples were taken from the petitioner, his husband and the child and it confirmed that the petitioner is the biological mother of the child. Earlier, based on the complaint given by the staff of the primary health centre before the Palavoor Police Station, an enquiry was conducted by the Palavoor Police and it was revealed that the Kannaiya and his wife are not the biological parents of the child and they have taken the child on adoption in violation of procedures and thereby the child was produced before the Child Welfare Committee, Tirunelveli and now, the child is kept in the Saranalayam Home.

4. The learned Additional Public Prosecutor further submitted that if at all the petitioner has any grievance, she has to approach the Child Welfare



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Committee, Tirunelveli since Child Welfare Committee is the proper forum to decide the custody of the child. He would further submit that the child is not an illegal custody of any one and the child was under the care and protection of the Saranalayam Home.

5. From the above facts, we find that the child is now in the home pursuant to the orders passed by the Child Welfare Committee, Tirunelveli and not in the illegal custody of any one.

6. In view of the above, this habeas corpus petition is disposed of with a direction to the petitioner to approach the Child Welfare Committee, Tirunelveli and the Child Welfare Committee, Tirunelveli shall pass orders in accordance with law, at the earliest.

[A.D.J.C., J.] [K.R.S., J.]
06.06.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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Nazareth,
Thoothukudi District.
- 3.The Chairman/Members,
Child Welfare Committee,
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- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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