

CrI.R.C. No. 1151 of 2018

Poongothai v. Child Welfare Committee

2019 SCC OnLine Mad 17733

In the High Court of Madras
(BEFORE P. VELMURUGAN, J.)

Poongothai ... Petitioner;

Versus

President, Child Welfare Committee ... Respondent.

CrI.R.C. No. 1151 of 2018

Decided on February 25, 2019

Advocates who appeared in this case :

For Petitioner: Mr. M. Mariappan

For Respondent: Mr. R. Suryaprakash Government Advocate (CrI. side)

The Order of the Court was delivered by

P. VELMURUGAN, J.:— This Criminal Revision is preferred by the petitioner to set aside the order dated 04.08.2018 passed by the learned Principal District Sessions Judge, Thiruvannamalai in CrI.M.P. No. 2575 of 2018.

2. The petitioner has tried to perform the marriage of her minor daughter Vinisha, aged about 17 years with one Mathiazhagan. After receiving information, the respondent/Child Welfare Committee has stopped the marriage and rescued the victim girl and produced before the Child Welfare Home, Tiruvannamalai.

3. The revision petitioner had file a petition in CrI.M.P. No. 2575 of 2018 before the learned District Judge, Tiruvannamalai to direct the respondent to handover the minor daughter to her. The petitioner undertakes that she would not repeat the same and she will take care of her minor daughter. After hearing both sides, the learned Principal Sessions Judge dismissed the petition. As against the order of the learned District Judge, the revision petitioner has filed the present petition before this Court.

4. The learned counsel for the petitioner would submit that the petitioner has filed an undertaking affidavit that she will not repeat the same again and the minor girl also feels uncomfortable in the home. Therefore, she may be handed over to her parents and they will take care of the minor girl further she has stated in the affidavit stating that the parents will not perform the marriage to their daughter till she attains majority.

5. Heard the learned counsel for the petitioner and the learned Government Advocate (CrI. Side) as well as the parents of the victim girl.

6. Pursuant to the earlier order, the parents of the victim girl are present and orally undertakes that they will not repeat the same once again and they realized their mistakes and the parents of the victim girl have filed an undertaking affidavit and the same is recorded.

7. On a perusal of the records, it is seen that the minor girl was sent to the Child Welfare Home, Thiruvannamalai. Admittedly, no case has been registered before any police station. Neither the respondent/Child Welfare Committee lodged a complaint nor the learned District Judge has given any direction to the police to register a case against the parents of the victim girl as well as groom and the parents of the groom. Therefore, in the interest of justice and by taking into consideration the welfare of the minor girl being kept in the home along with other offenders, every possibilities that

the future of the minor girl will be spoiled, if the victim is kept in the home for a prolonged period of time. Recording the submissions, so made by the learned counsel for the petitioner and the undertaking affidavit filed by the mother of the minor girl, this Court is inclined to direct the respondent to hand over the custody of the minor girl to her parents.

8. With the above observations and directions, this Court is inclined to set aside the order passed by the learned Principal District Sessions Judge, Thiruvannamalai dated 04.08.2018 in CrI.M.P. No. 2575 of 2018. This Court finds so far no case was filed against any of the persons who arranged for the marriage. Therefore, this Court directs all the District Judges or Judicial Magistrates those who receive any information regarding the child marriage, immediately, they shall forward the complaint to the jurisdictional police station and direct to register the case against the groom and parents of both to proceed against them for the offences under the Child Marriage Restraint Act 1929 in accordance with law, otherwise the purpose of the said Act itself will be defeated. The parents those who attempt to perform the child marriage should face the consequences and they have to realize their responsibility in the society otherwise the same act will continue without coming to an end. The District Child Welfare Committees are also directed to lodge a complaint before the jurisdiction police station against the person who are responsible to arrange the marriage for minor girls.

9. In the result, this Criminal Revision is allowed.

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