

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 16.12.2015

CORAM

THE HONOURABLE MR. JUSTICE R. SUDHAKAR  
AND  
THE HONOURABLE MR. JUSTICE P.N.PRAKASH

HCP.No.2675 of 2015

Anuradha Gopinathan

..Petitioner

Versus

1.The Assistant Commissioner  
Nungambakkam Police Station  
Nungambakkam High Road  
Chennai 600 034.

2.The Inspector of Police  
F-3 Nungambakkam Police Station  
Nungambakkam High Road  
Chennai 34.

3.Gopal Gopinathan

4.The State  
rep by the Commissioner of Police'  
Office of Commissioner of Police  
Vepery, Chennai 7.

..Respondents

[R4 impleaded as per order of this Court dated 16.10.2015]  
made in Mp.1/15 in HCP.No.2675/2015

Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Habeas Corpus directing the respondents 1 and 2 to produce the petitioner's minor Son Sidhartha before this Court, who is under the illegal custody of the 3rd respondent, set him at liberty and hand over his custody to the petitioner.

For Petitioner : Mr.J.Ravikumar

For RR1,2 & 4 : Mr.A.N.Thambidurai  
Addl. Public Prosecutor

For R3 : Mr.A.Selvendran

## ORDER

This petition has been filed seeking a direction to the respondents 1 and 2 to produce the petitioner's minor son, Sidhartha, before this Court, who is under the illegal custody of the 3rd respondent, set him at liberty and hand over his custody to the petitioner.

2. For the sake of convenience, the parties will be referred to by their name.

3. Anuradha Gopinathan [Petitioner] married Gopal Gopinathan [3rd respondent] in the year 1999 and after marriage, they settled in California, U.S.A. Anuradha Gopinathan worked as a nurse in a hospital in California and Gopal Gopinathan had his own avocation. Through the wedlock, they have a son Sidhartha, who was born in the U.S.A. on 12.10.2010, on account of which he is a natural citizen of that country by birth. Their matrimonial life ran into rough weather and their differences arose. Anuradha Gopinathan initiated proceedings for dissolution of the marriage before the Superior Court of the State of California, County of Sacramento and during the pendency of the proceedings, the Superior Court passed an order on 21.08.2015 permitting Gopal Gopinathan to take Sidhartha to India on 24.08.2015 and bring him back to the U.S.A. on 28.09.2015. Gopal Gopinathan, however, did not return to the U.S.A. in terms of the order passed by the Superior Court of the State of California, whereby Anuradha Gopinathan was constrained to come down to India and file the present Habeas Corpus Petition seeking production and custody of the minor child - Sidhartha.

4. At this juncture, it may be apposite to refer to one important fact, which is relevant. On coming to India, Gopal Gopinathan initiated proceedings in HMOP No.3821 of 2015 before the II Additional Family Court, Chennai in India under the Hindu Marriage Act for dissolution of his marriage with Anuradha Gopinathan.

5. In this Habeas Corpus petition, we ordered notice to Gopal Gopinathan and he appeared before us with the child - Sidhartha. He disclosed certain problems that arose after he came back from the U.S.A., whereby he was constrained to stay back. The petitioner, on her part, expressed certain issues that marred the matrimonial life both in the U.S.A. as well as in India. She, however, stated that she is willing to reconsider the decision for dissolution of marriage. Similar view was expressed by the third respondent in the course of

their interaction with us in the Court and Chambers proceedings. We allowed the couple to go through several rounds of mediation and counselling sessions at our initiative. We also had interaction with them collectively and individually in our Chambers. This endeavour on the part of the Court seems to have borne fruit.

6. The couple - petitioner/wife and the third respondent/husband have now come to an amicable settlement, pursuant to which Gopal Gopinathan withdrew the matrimonial proceedings in HMOP No.3821 of 2015 before the II Additional Family Court, Chennai on 15.06.2015. Mrs.Anuradha Gopinathan, on her part, has agreed to withdraw the cases preferred by her in the United States of America and before all authorities, if any. They have filed a joint affidavit dated 15.12.2015 incorporating the terms of agreement, which are as follows:

"4.Pursuant to the said understanding arrived the parties hereto have agreed to the following:

- a. The parties hereto decided to settle in North Carolina in U.S.A. with their minor son Sidhartha. The 3<sup>rd</sup> Respondent shall return to North Carolina U.S.A with minor Sidhartha during the first week of February 2016. In the event of the 3<sup>rd</sup> Respondent intending to stay for any further period in India, the petitioner shall take their minor son Sidhartha with her to North Carolina, U.S.A. and the 3<sup>rd</sup> respondent shall join them in U.S.A., at earliest.
- b. The petitioner has condoned the acts of the 3<sup>rd</sup> Respondent and she shall withdraw the Case No.15 FL 04224, in the Superior Court of California and intimate the same to the 3<sup>rd</sup> respondent by email. The petitioner has already obtained a certificate dated 07.12.2015 from the Office of the District Attorney, California that no criminal charges are pending against the 3<sup>rd</sup> Respondent and she had also verified with the Federal Bureau of Investigation that no criminal charges are pressed against the 3<sup>rd</sup> Respondent.
- c. The parties shall sell their immovable property in California and invest the money in mutually acceptable funds considering

short term and long term needs of the family.

- d. The parties shall attempt to rent an apartment at Cary.
- e. The petitioner agrees to take up a suitable job in North Carolina, preferably, Clinical research position and avoid bed side nursing job.
- f. The parties agree that Sidhartha shall be put either in Chesterbrook Academy, or Triangle Math & Science Academy or Thales Academy in the order of choice.
- g. The petitioner agrees to consult a doctor and get treatment for respiratory issues.
- h. The parties agree to apply for renewal of passport of Sidhartha.
- i. The parties crave leave of this Hon'ble Court to take the joint affidavit on record and pass orders in terms of this joint affidavit."

We record the terms of the settlement as above and all pending litigations between the petitioner and the third respondent stand closed.

7. Admittedly, the minor child - Sidhartha is a citizen of the U.S.A. and he is lawfully entitled to the protection and care of the U.S. Government and we felt so. In our considered opinion and in the fitness of things, the minor child - Sidhartha needs to grow up in the U.S.A. It is for him to decide where to live after he attains a discerning age. We record the undertaking of either parties and as undertaken, Gopal Gopinathan shall ensure that the child - Sidhartha is taken back or sent back to the U.S.A. in terms of clause (a) of the joint affidavit dated 15.12.2015, recorded above. The order of this Court may also be placed before the appropriate Court in the U.S.A. for giving a quietus to any issues that may be pending.

8. Recording the above, this Habeas Corpus Petition is closed with a direction to both the parties to adhere to the

agreed terms in letter and spirit, bearing in mind the paramount welfare of the minor Sidhartha.

sd/-  
Assistant Registrar(Cs-V)

/TRUE COPY/

Sub-Assistant Registrar

gms

To

1.The Assistant Commissioner, Nungambakkam Police Station  
Nungambakkam High Road, Chennai 600 034.

2.The Inspector of Police, F-3 Nungambakkam Police Station  
Nungambakkam High Road, Chennai 34.

3.The Commissioner of Police' Office of Commissioner of Police  
Vepery, Chennai 7.

4.The Public Prosecutor, High Court, Chennai.

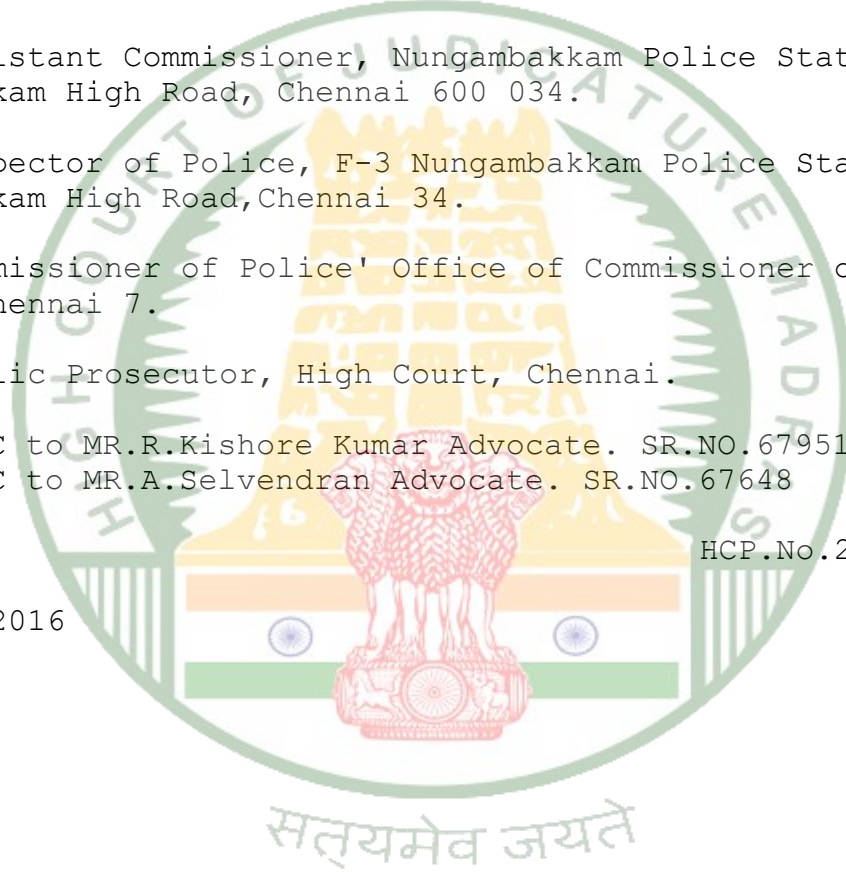
+1 CC to MR.R.Kishore Kumar Advocate. SR.NO.67951

+1 CC to MR.A.Selvendran Advocate. SR.NO.67648

HCP.No.2675 of 2015

CO-SV

JD 11/01/2016



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