

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 24.07.2015

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THE HONOURABLE DR.JUSTICE S.TAMILVANAN  
AND  
THE HONOURABLE MR.JUSTICE C.T.SELVAM

H.C.P. No.1768 of 2015

R.Kalarani

... Petitioner

-v-

1. State rep. by Inspector of Police,  
Arani Police Station,  
Tiruvannamalai District.

2. Vijayakumar

... Respondents

Habeas Corpus Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Habeas Corpus directing the first respondent to bring the body of the detenu, by name Sujith Surya, Son of Late Pugalarasan, aged about 6 years, now detained by the second respondent and illegally confined at Nessel Village, Arani Pudupattu, Tiruvannamalai District and to set him at liberty.

For Petitioner : Mr.S.Namonarayanan

For Respondents: Mr.A.N.Thambidurai  
Addl. Public Prosecutor

O R D E R

(Order of the Court was made by S.TAMILVANAN,J.)

This petition has been filed under Article 226 of the Constitution of India, by the petitioner/paternal grandmother of the detenu Master Sujith Surya, Son of late Pugalarasan, aged about 6 years, before this Court and to set him at liberty and hand over the custody of the child to the petitioner.

2.It is submitted by the learned counsel for the petitioner that the second respondent is the step-father of the minor child. According to her, the father of the detenu was done to death and the case was pending. According to her, the petitioner is competent person in the absence of father of the detenu. However, she has not explained the murder of the father of the detenu, which was best known to the petitioner. When the mother is the natural guardian, it would not be construed as illegal detention and when there is no

illegal detention, the Habeas Corpus Petition itself is not maintainable. Hence, filing this type of petition would be construed only as an abuse of process of law. It is open to the petitioner to approach the appropriate forum seeking her remedy.

3.With the above observation, this petition is dismissed.

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s/d-  
Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

To

1. State rep. by Inspector of Police,  
Arani Police Station,  
Tiruvannamalai District.

2. The Public Prosecutor,  
High Court of Madras,  
Chennai 600 104.

+ 1 cc to M/s.S.Namonarayanan, Advocate SR 37851

rsk(co)  
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सत्यमेव जयते

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