

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.04.2015

CORAM:

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

H.C.P.No.241/2015

S.Venugopal

.. Petitioner

vs.

1.The Inspector of Police
P3 Vyasarpadi Police Station
Chennai.

2.Nadamma

.. Respondents

Prayer : Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of habeas corpus petition directing the respondents to produce the detenu minor child Sabapathy, son of Venugopal, aged 8 years, before this Court and set him at liberty forthwith.

For Petitioner .. Mr.M.J.Nissar Ahmed
For R1 .. Mr.A.N.Thambidurai, APP
For R2 & the detenu .. Mr.N.Prabhu

ORDER

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

This petition has been filed by the petitioner/father of the detenu Sabapathy, aged about 8 years, to secure his son, who is said to be in the illegal custody of the 2nd respondent and set him at liberty.

2.Heard the learned counsel for the petitioner ; learned Additional Public Prosecutor appearing for the 1st respondent and Mr.N.Prabhu, learned counsel appearing for the 2nd respondent as well as for the detenu. The 2nd respondent is none other than the maternal grandmother of the detenu Sabapathy.

3.Today the detenu/minor Sabapathyis produced before this Court by the respondent police along with the 2nd respondent.

4.It is an admitted fact that the minor Sabapathy, the detenu herein, aged about 8 years is in the custody of his maternal grandmother, the 2nd respondent herein, as his mother, the wife of the petitioner herein, had expired on 04.10.2014 by committing suicide.

5.On enquiry, the detenu Sabapathy stated that he is willing to go only along with the 2nd respondent herein, who is his maternal grandmother. We are of the view that there is no illegal custody of the child, as the child, having lost his mother, is being taken care of only by his maternal grandmother and not a stranger.

6.In the light of the above, this Court is of the view that the petition is not legally maintainable. If at all, the petitioner wants to have the custody of his child, it is open to the petitioner to approach the appropriate Forum seeking appropriate remedy.

7.The Habeas Corpus Petition is dismissed with the above observation and the detenu/minor Sabapathy is permitted to go along with his maternal grandmother, the 2nd respondent herein.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

AP
To

1.The Inspector of Police
P3 Vyasarpadi Police Station
Chennai.

2.The Public Prosecutor
High Court, Madras.

1 cc to Mr. N.Prabhu, Advocate, SR.No.14590

H.C.P.No.241/2015

lrs(co)
pmk.23.4.2015