

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.11.2015

CORAM

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

HCP.No.2866 of 2015

S.Manju Gobi

... Petitioner

Versus

1. The Commissioner of Police
Commissioner office, Egmore
Chennai 600 008.
2. The Inspector of Police
Guduvancherry Police Station
Guduvancherry, Kancheepuram District.
3. Gnanasekaran
4. Tmt.Subbuthai
5. Tmt.Ponnuthai

.... Respondents

Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Habeas Corpus directing the respondents to produce the person and body of child Prathyum aged about 5 years son of Gnanasekaran, before this Court.

For Petitioner : Mr.V.S.Usha Rani

For R1 & R2 : Mr.A.N.Thambidurai
Additional Public Prosecutor

For R3 : Mr.G.Punniakotti

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ORDER

[Order of the Court was made by P.N.PRAKASH, J.,]

The above petition has been filed by the petitioner/mother of the detenu, to cause production of her son, Prathym, aged about 5 years, who is said to be in the illegal custody of the 3rd respondent/father of the minor detenu and his mother and sister/respondents 4 and 5 herein, before this Court and to hand over his custody to her.

2. It is the case of the petitioner that she got married to one Gnanasekaran, the 3rd respondent herein and through the wedlock, they have a child by name Prathym and they were living together at Door No.57, 58, Sribaba Nagar, Urapakkam, Kancheepuram District and that the 3rd respondent has taken away the child on 16.10.2015, in connection with which, the petitioner lodged police complaint and a petition enquiry is pending in the matter.

3. On notice to the respondents, the 3rd respondent/father of the minor detenu, appeared before this Court with the child Prathym.

4. on enquiry, the 3rd respondent has stated that on account of matrimonial discord with the petitioner, he had taken the child with him and is living with his sister/the 5th respondent herein, nearby. On further enquiry with the petitioner and the 3rd respondent, it appears that there seems to be some misunderstanding between the spouses. It is admitted by both the parties that the house in the above mentioned address is in the name of the petitioner as well as the 3rd respondent and that the parents of the petitioner are staying in the said house and that the 3rd respondent was driven away therefrom.

5. Today, the petitioner and the 3rd respondent, have filed their individual affidavits. Taking into consideration the paramount welfare of the child, they have decided to live in the said house with the child and work out their differences in the manner known to law. The respective paragraphs in the affidavits read thus:-

Petitioner's affidavit:-

".....

3.I state that I will not interfere with the 3rd respondent's stay at house situated at 57, 58, Sri Baba Nagar, Urapakka, Chennai 603 210.

4.I further state that I should not be disturbed by the 3rd respondent to bring up my child and sending the child to school and in all his welfare activities.

5.I further state that the 3rd respondent should also not disturb my stay in the said house with my child."

3rd Respondent's Affidavit:-

".....

2.The HCP filed by S.Manju Gobi who is my wife for the production of the son namely Prathyum.G. who was born out of our wedlock. The Court directed as to file an affidavit to the effect that my parents will not reside along with me. I the father, do hereby state that my parents or any of my relatives will not live with me place of No.57, 58, Sri Baba Nagar, Urapakkam, Kancheepuram District, which my residence place and also undertake to look after the child very well if custody of the child is given to me by this Hon'ble Court."

6. Recording the above, this Habeas Corpus Petition is closed, with a direction to the petitioner/mother and the 3rd respondent/father of the minor detenu to live together for the welfare of the child in the said house and take care of the child in the best possible manner. They may settle their other differences through appropriate Forum.

Sd/-

Assistant Registrar(CO)

//True Copy//सत्यमेव जयते

Sub Assistant Registrar

AP

To

1. The Commissioner of Police
Commissioner office, Egmore
Chennai 600 008.

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2. The Inspector of Police
Guduvancherry Police Station
Guduvancherry, Kancheepuram District.

3. The Public Prosecutor
High Court, Chennai.

+1cc to Mr.V.S.Usha Rani, Advocate, S.R.No.62204
+1cc to Mr.G.Punniakotti, Advocate, S.R.No.62374

HCP.No.2866 of 2015

AK(CO)
CA(25/11/2015)



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