

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 06.11.2015

CORAM

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

H.C.P. NO. 2870 OF 2015

Dr. R.K.Ananthakrishnan

.. Petitioner

- Vs -

1. Dr. C.Anandhi

2. The Inspector of Police
Puthu Nagar Police Station
Cuddalore.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying this Court for the issuance of a writ of habeas corpus directing the release of the petitioner's minor son, Aniruthkrishna, aged about 3 years from the custody of the first respondent and set him at liberty and hand over the child to the petitioner.

For Petitioner : Ms. R.Meenakshi

For Respondents : Mr. A.N.Thambidurai, APP for R-2

ORDER

(DELIVERED BY P.N.PRAKASH, J.)

This petition has been filed by the petitioner for a direction on the respondents to release the petitioner's minor son, Aniruthkrishna, aged about 3 years, presently in the custody of the first respondent, set him at liberty and hand over custody of the detenu to the petitioner.

2. It is seen from the affidavit filed in support of the petition that the petitioner and the first respondent got married on 4.5.2012 at Cuddalore and through the wedlock, a male child was born on 8.3.2013. Due to marital discord, the petitioner and the first respondent are living separately and the child, born of the wedlock is in the custody of the first respondent. Very many complaints have been lodged against one or the other party with various police authorities. Inspite of repeated requests, the petitioner is not permitted access to the

child and, therefore, the present petition has been filed with the prayer as made above.

3. Heard the learned counsel appearing for the petitioner and perused the materials filed along with the petition.

4. It is not in dispute that the petitioner and the first respondent, spouses, are estranged due to some matrimonial discord. At present, the petitioner and the first respondent are living separately. However, the child born of the wedlock is in the custody of the mother, viz., the first respondent. That being the factual position, the alleged detenu, viz., the child, being with the mother, could in no way be termed as illegal detention as she is the natural guardian of the child, aged about three years. In the above factual background, there being no illegal detention, no writ of habeas corpus could be granted. Accordingly, this petition is closed. However, liberty is granted to the petitioner to pursue the matter before the Family Court in accordance with law.

Sd/
ASSISTANT REGISTRAR(CO)

/TRUE COPY/

SUB-ASSISTANT REGISTRAR

GLN

To

1. The Public Prosecutor
High Court, Madras.
2. The Inspector of Police
Puthu Nagar Police Station
Cuddalore.

+1 CC to Ms.R.Meenakshi Advocate. SR.NO. 61533

CO-NM
JD 09/12/2015

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