

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 05.06.2015

CORAM

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

H.C.P. No.814 of 2015

K.Sharan Shamayeela

... Petitioner

-v-

1.State rep. by
Inspector of Police,
N1-Royapuram Police Station,
Chennai.

2. A.Samiullah

... 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 produce the detainee S.Fathima Sanah Afrin, daughter of A.Samiullah, aged about 11 years before this Court and handed over her custody to the petitioner herein.

For Petitioner	:	Mr.P.Prince Premkumar
For Respondents	:	Mr.A.N.Thambidurai
		Addl. Public Prosecutor
		for R1

O R D E R

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

Heard the learned counsel for the petitioner as well as the learned Additional Public Prosecutor for the first Respondent.

2.It is not in dispute that the petitioner is the mother of the alleged detainee Minor S.Fathima Sanah Afrin. The second respondent is the father of the said minor girl. Learned counsel for the petitioner submits that there was thalak pronounced against the petitioner and as per the consensus arrived at before the Jamath, the second respondent agreed to hand over the minor girl to the petitioner. However, detrimental to the right of the petitioner, the second respondent has taken the minor girl.

3.Having considered the submission made by the learned counsel for the petitioner, we are of the view that it is a matrimonial dispute between the petitioner and the second respondent with regard

to custody of the minor girl. A girl in the custody of either father or mother is not construed to be an illegal detention to invoke provisions under Article 226 of the Constitution of India. Accordingly, the Habeas Corpus Petition is dismissed.

4.However, it is open to the petitioner to seek appropriate remedy before the appropriate forum.

Sd/-

Assistant Registrar

True Copy

Sub Assistant Registrar

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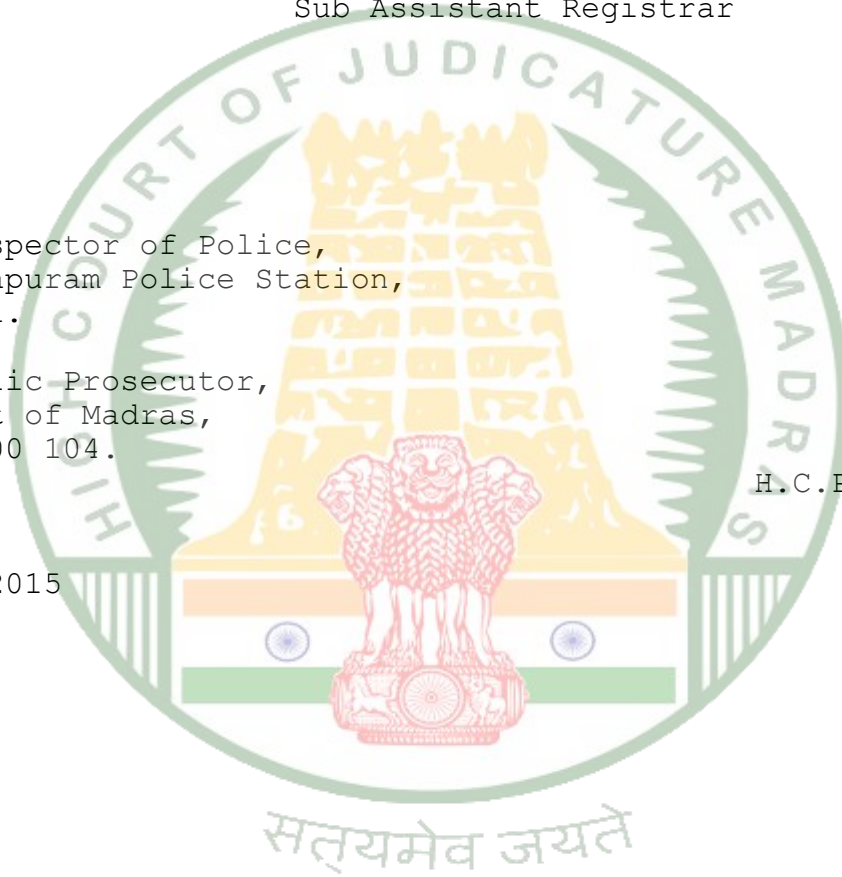
To

1.The Inspector of Police,
N1-Royapuram Police Station,
Chennai.

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

H.C.P. No.814 of 2015

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