

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.835/2015

Krishnamurthy

..

Petitioner

vs.

1.The Superintendent of Police
Cuddalore District, Cuddalore 607 001.

2.The Inspector of Police
Muthandikuppam Police Station
Muthandikuppam 607 005.

3.Rajavel

..

Respondents

Prayer : Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of habeas corpus petition directing the 2nd respondent to produce the body or person of the petitioner's brother's daughter Lavanya D/o.[late] Selvamurthy, aged about 13 years and set her at liberty and restore her to the petitioner's custody.

For Petitioner

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Mr.Durai Gunasekaran

For R1 & R2

..

Mr.A.N.Thambidurai, APP

ORDER

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

Invoking Article 226 of the Constitution of India, the petitioner has filed this petition, to cause production of the detainee Lavanya, aged about 13 years, his brother's daughter, who is said to be in the illegal custody of the 3rd respondent herein and to hand over her custody to him.

2.Heard the learned counsel for the petitioner ; learned Additional Public Prosecutor appearing for the respondents 1 and 2.

3.The petitioner is the brother of the alleged detainee, Lavanya's father, viz., Selvamurthy, who had expired two years ago.

4.Today the detainee Lavanya is produced before this Court by the respondent police along with her mother Anandajothi.

5.On enquiry, the detainee Lavanya stated that she is not in any illegal detention of anybody much less her mother and that she is living with her mother and the 3rd respondent is nothing to do with them. She also expressed her willingness to go only along with her mother. The detainee's mother, Anandajothi, who is present before us, also admitted the factum of her daughter living with her.

6.Learned counsel for the petitioner submitted that the brother of the petitioner/father of the detainee had expired and that the detainee has to continue her studies and therefore, considering the welfare of the detainee, the petitioner needs the custody of the detainee.

7.In view of the categorical submission of the detainee Lavanya, this Court is of the considered view that the custody of the detainee with her mother is not illegal as she being the natural guardian. This Court also feels that in the presence of the natural guardian, the petitioner, being the paternal uncle of the detainee, has no locus standi to file this present Habeas Corpus Petition, which is not 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, if law permits.

8.The Habeas Corpus Petition is dismissed with the above observation and the detainee/minor Lavanya is permitted to go along with her mother Anandajothi.

Sd/-

Assistant Registrar

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Sub Assistant Registrar

AP

To

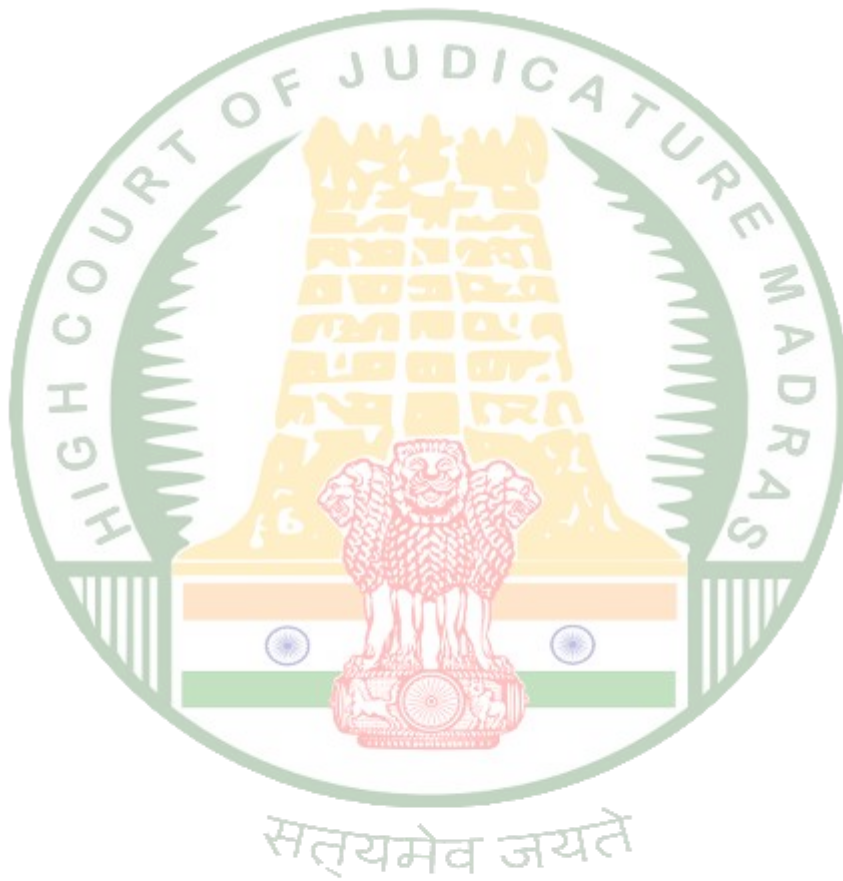
1.The Superintendent of Police
Cuddalore District, Cuddalore 607 001.

2.The Inspector of Police
Muthandikuppam Police Station
Muthandikuppam 607 005.

3.The Public Prosecutor
High Court, Madras.

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