

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 10.04.2015

CORAM

THE HONOURABLE DR.JUSTICE S.TAMILVANAN
AND
THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

H.C.P. No.853 of 2015

M.Vajravel

... Petitioner

-v-

1.The State rep. by Inspector of Police,
Oragadam Police Station,
Oragadam, Sriperumbudur Taluk,
Kanchipuram District.

2.G.Mohandas

... 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 herein to secure and produce the petitioner's minor son V.Sanjeev, aged about 1 ½ years old, from the illegal custody of the second respondent herein before this Court and to set him free at liberty.

For Petitioner : Mr.Ilanthreyan for
M/s.Sai Bharath and Ilan

For Respondents : Mr.A.N.Thambidurai
Addl. Public Prosecutor for R1
Mr.R.Sankarasubbu for R2

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O R D E R

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

Heard the learned counsel for the petitioner, learned Additional Public Prosecutor appearing for the first respondent and the learned counsel appearing for the second respondent.

2.The petition has been filed by the petitioner under Section 226 of the Constitution of India directing the first respondent herein to secure and produce the petitioner's minor son V.Sanjeev,

aged about 1½ years, from the alleged illegal custody of the second respondent herein before this Court and to set him at liberty.

3.It is an admitted fact that the petitioner's wife Divya is no more. According to the learned counsel for the petitioner, it was only a natural death. However, according to the learned counsel for the second respondent, it is not a natural death and the second respondent raises some allegations against the petitioner for the death of Mrs.Divya.

4.On enquiry, the mother of the deceased Divya, who is present before this Court, told us that the child V.Sanjeev, aged about 1½ years is only in her custody, after the death of her daughter Divya.

5.On the facts and circumstances, we are of the view that the child Sanjeev is only with the care and custody of his maternal grandmother, which cannot be treated as illegal custody, though we cannot go into the cause of the death of the deceased Divya, wife of the petitioner.

6.Having gone through the averments made in the accompanying affidavit filed by the petitioner and also the material papers, we are of the view to dismiss the petition, as there is no illegal detention of the grand son by the second respondent, who is the father of the deceased Divya.

7.In the result, the petition is dismissed. However, it is open to the petitioner to approach the appropriate forum seeking custody of the child, according to law. If there is any such petition filed, the same shall be decided only on merits, uninfluenced by the findings, if any, in this order, by this Court.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

vga

To

1.The Inspector of Police,
Oragadam Police Station,
Oragadam, Sriperumbudur Taluk,
Kanchipuram District.

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

1 cc to Mr.R.Sankarasubbu ,Advocate, SR.No.20021

1 cc to Mr. M/s.Sai Bharath and Ilan ,Advocate, SR.No.20019

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lrs(co)pmk.27.4.2015