

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 23.04.2015

CORAM

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

H.C.P.No.869 of 2015

Meenakshi
W/o.Late Velu

....Petitioner/Mother of the Detenu

vs.

1.The Superintendent of Police,
Thiruvallur District.

2.The Inspector of Police,
All Women Police Station,
Uthukottai Town & Taluk,
Thiruvallur District.

3.Iyyappan
S/o.Munisamy

4.Rajammal
W/o.Munisamy

5.Babu
S/o.Ganesan

6.Selvam
S/o.Ganesan

7.Ganesan

... 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 respondents 1 to 7 to produce body of the petitioner's minor children Anu Kutti, aged about 7 years and Kaviya, aged about 5 years, before this Court and handed over their custody to the petitioner herein.

For Petitioner : Mr.Karan

For Respondents : Mr.A.N.Thambi Durai
Additional Public Prosecutor [R1 & R2]

O R D E R

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

This petition has been filed by the petitioner/mother of the detainee Anu Kutti, aged about 7 years and Kaviya, aged about 5 years, to cause production of her children before this Court.

2. It is not in dispute that the husband of the petitioner committed suicide. It is submitted by learned counsel for respondents 3 to 7 that on the suspicion that the petitioner was having illegal intimacy with one Venkatesan, the petitioner's husband committed the murder of the said Venkatesan. Thereafter, the petitioner's husband took his children and put them under the custody of the respondents 3 to 7, his family members. Learned counsel also submits that the seventh respondent/grand father of the detainee, has filed G.W.O.P.No.46 of 2015 on the file of learned Principal District Judge, Tiruvallur, seeking appointment of guardian and the same is pending.

3. In the facts and circumstances of the case, we are of the view that the only question to be considered is that who is the competent person to take care of the children keeping in view their welfare. It is to be noted that disputed question of fact cannot be gone into in a writ petition. When there is no illegal detention of the detainee, no positive direction could be issued as prayed for.

Accordingly, this Habeas Corpus Petition is dismissed. Since G.W.O.P.No.46 of 2015 on the file of learned Principal District Judge, Tiruvallur, is pending, the petitioner and the respondents 3 to 7 are at liberty to seek their remedy before such Court.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

gm

To

1.The Superintendent of Police,
Thiruvallur District.

2.The Inspector of Police,
All Women Police Station,
Uthukottai Town & Taluk,
Thiruvallur District.

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

1 cc to Mr.M.Kemp raj ,Advocate, SR.No.22668

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vgi (co)
pmk.13.5.2015



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