

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 01.09.2015

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

CRL.OP.No.21889 of 2015

G.Komala

... Petitioner

Vs

1.The State of Tamil Nadu,
Rep by the Inspector of Police,
Edayarpalayam Gramiya Police Station,
Edayarpalayam,
Coimbatore District.

2.Ganesamurthy ... Respondents

Criminal Original Petition filed under Section 482 of Cr.P.C.,
praying to direct the 1st respondent to forthwith secure the custody
of the minor son of the petitioner, namely, Mohanraj, now aged 4
years, from the custody of the 2nd respondent and to hand over the
custody of the minor son Mohanraj to the petitioner has ordered in
IA.No.61 of 2013 Sub Court, Vaniyambadi.

For Petitioner : Mr.K.Selvaraj

For Respondents : Mr.C.Emalias, APP [for R1]

O R D E R

This petition has been filed to direct the 1st respondent to
secure and hand over the custody of the minor son of the petitioner
from the custody of the 2nd respondent to the petitioner.

2. Heard the learned counsel for the petitioner; learned
Additional Public Prosecutor for the 1st respondent and perused the
materials placed on record.

3. It is seen that this petitioner has filed an application
under Section 26 of the Hindu Marriage Act in respect of the
custody of the child and an order has also been obtained from the
Sub Court, Vellore, directing the respondent/husband to hand over
the custody of the child to the petitioner.

4. It is the contention of the petitioner that the respondent
is not handing over the child in spite of the order passed by the
Civil Court in the matrimonial proceedings. In this regard, the
petitioner also filed an application before the Civil Court under
Section 151 CPC for a direction to the respondent/husband to hand

over the child with the help of police. This petition was allowed way back on 07.11.2013.

5. It is the contention of the petitioner that the respondent is not handing over the child and directions to be issued under Section 482 Cr.P.C to the police to interfere.

6. Under Section 482 Cr.P.C, an order can be passed only in respect of matters covered by the Code of Criminal Procedure and not in matters covered by the Code of Civil Procedure. Therefore, the direction as prayed for by the petitioner cannot be granted under Section 482 Cr.P.C. It is always open to the petitioner to initiate action against the respondent before the Civil Court for disobedience of its order.

With the above observation, this petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1.The Inspector of Police,
Edayarpalayam Gramiya Police Station,
Edayarpalayam,
Coimbatore District.

2.The Public Prosecutor,
High Court, Madras.

+ 1 cc to Mr.K. Selvaraj, Advocate Sr.46692

सत्यमेव जयते

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LRS (CO)
Eu 16.09.15

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