



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.08.2015

CORAM:

THE HONOURABLE MR.JUSTICE P.DEVADASS

C.R.P. (PD) (MD) No.1724 of 2015

N.Anandhi : Petitioner/Respondent/Petitioner

Vs.

A.Navaraj : Respondent/Petitioner/Respondent

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India to set aside the order dated 1.8.2015 made in I.A. No.16 of 2015 in H.M.O.P.No.354 of 2014 on the file of the learned Judge, Family Court, Madurai.

For Petitioner : Mr.C.Arul Vaidvel @ Sekar
For Respondent : Mr.S.j.Chakkaravarthy for
Eddy & Emboss

O R D E R

Children are nation's wealth. They are future of India. They cannot be treated like chattels. But, in family matters inviting police is invitation to problems. This is a short introduction to this order.

2.The spouses Anandhi and Navaraj are at their loggerheads. Difference of opinion seems to have separated them. But their only daughter aged about 7 years also got separated from her parents for no fault of her but because of the quarrel between her father and mother.

3.In H.M.O.P.No.354 of 2014 before the Family Court, Madurai, Anandhi seeks divorce. It is being opposed by her husband.

4.In this, her husband filed I.A.No.16 of 2015, seeking visitation rights to see his daughter. It was also hotly contested. The learned Family Court Judge, Madurai, gave him limited relief.

5. In her impugned order dated 01.08.2015, the learned Family Court Judge ordered that on the second and fourth Sunday of every month between 10a.m and 05p.m Navaraj will be with his daughter in the house of his parents in Madurai. Navaraj(respondent herein) is very happy about this but not Anandhi.

6.Anandhi(revision petitioner) was very much upset noticing the last few lines in paragraph No.7 which has also been carried out as it is in para 8, which is the operative portion of the impugned order. The said paragraph runs as under:

7. "... Therefore the petitioner is permitted to be with her *** child at 2nd and 4th Sunday of every English Calendar month from 10.00 a.m to 5.00 p.m. He is entitled to be with his child in his parent's house in Madurai. In order to avoid further complication the child is to be handed over and take over by both parties in the presence of police under whose



jurisdiction the respondent is residing"

(*** it should be 'his') (The underlining is supplied by us).

7. A child should not be tossed nor torn between her parents and the police. Generally, nobody likes or loves to go to police station. The reasons are not far to seek. They are obvious. More so, it would be quite unthinkable to involve police in the handing over and taking over of a live human being, a female child of 7 years old.

8. Family Courts as a new system of courts to resolve family disputes were brought into existence under the Family Courts Act, 1984 with a view to deal with and treat the family problems with a new focus and with different perspective quite different from our routine and regular ordinary courts. One of the objectives and the Rules framed with regard to the children is that it must be 'child friendly'. There shall not be any hostile treatment or atmosphere to the children. Welfare of the child is paramount.

9. 'The child friendly' culture and atmosphere would be thwarted if the child is involved with the police. Generally, when the children refuses to eat, parents used to threaten them by using the police name. So from the childhood, the children are being taught, brain washed to develop antipathy towards police. This is not good at all. This is not a good culture. It must change.

10. When such is the position, involving police in child friendly proceedings and matters connected thereto virtually goes against the spirit of the scheme of the said Act and the Rules founded thereunder.

11. In these circumstances, we are not approving the procedure adopted by the learned Family Court Judge, Madurai. It will supply fuel to the burning fire. It will add insult to the already warring couples and both sides families.

12. In Family Court matters interference of police should be avoided. Because, experience tells that police stations have become feeding centres for Family Courts it is because of their inept handling of these sensitive matters, especially in dowry demand allegation cases. It results in people rushing to the Family Courts. This is also one of the reason for the increasing number of matrimonial ca(u)ses. And these courts are being flooded. The matrimonial court Judges are battling. They are being overpowered by overwhelming of number of cases in these courts. Thus the attitude, approach and method, being adopted by the police more particularly in the All Women Police, must be changed. They must be sensitized by effective training on gender justice, rights of women and children.

13. Family Court Judges must be sensitive to the issues more particularly the core issues. They must approach the family problems with much care and caution. They are not related to properties but are related to live human beings. They are live bombs. If they are not properly handled, they will explode at any time and cause incalculable damages to the entire fabric of family life. Indirectly, the families and relatives are also suffering as none of the family members will be happy on the family problems between their dear and near ones.



14. In the matrimonial discordance, the worst sufferers are the innocent children. Because of their parents(fighting), the children's future, education, development and welfare is being ruined day by day. In the school, if it is known, the teachers and the students look down upon such child and at times they becomes objects of caricature, put to shame and ignominy. Concerned parties must realize this predicament of these children and their future.

15. We revert back to Anandhi Vs. Navaraj.

16. Experience tells that handing over and taking over of the children creates lot of problems. Somebody has to oversee this. Now, both sides are being assisted by legal advisors. Parties are bound by their wise counselling as they have reposed confidence in them.

17. In the circumstances, instead of police we will choose the learned counsels for policing this handing over and taking over exercise. This is good for both sides. Both sides also have agreed for this process.

18. In view of the foregoing, the order of the learned Judge, Family Court, Madurai, passed in I.A.No. 16 of 2005 on 01.08.2015 directing the respondent to hand over and take over the child to the petitioner at 10a.m and return back the child at 5p.m in the presence of jurisdictional police is modified as under:

"The respondent Navaraj is permitted to be with his daughter in his parents' house in Madurai at every 2nd and 4th Sunday of English Calender Month from 10.00 a.m to 5.00 p.m. The child shall be handed over and taken over by both parties in the presence of both sides counsels."

19. This modified order comes into operation with effect from 13.09.2015.

20. Accordingly, this Civil Revision Petition is disposed of. No costs. Consequently, connected M.P.s are closed.

Sd/-

Assistant Registrar

/True Copy/

Sub Assistant Registrar

To,
The Judge, Family Court, Madurai.

+1cc to Mr.C.Arul Vadivel @ Sekar, Advocate in SR.No.49772

+1cc to M/s.Eddy & Emboss, Advocate in SR.No.49838

C.R.P. (PD) (MD) .No.1724 of 2015
28.08.2015

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