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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.11.2015

CORAM:

THE HONOURABLE MR.JUSTICE P.R.SHIVAKUMAR
and

THE HONOURABLE MR.JUSTICE V.S.RAVI

H.C.P(MD)No.1294 of 2015

Prema

.. Petitioner

Vs.

1.The Superintendent of Police,
Thanjavur District,
Thanjavur.

2.The Inspector of Police,
All Women Police Station,
Pattukottai,
Thanjavur District.

3.Manian

4.Meenambal

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus, directing the respondents to produce the person or body of the detenu namely Nikashvaran (aged about 3 years), son of the petitioner, before this Court and to hand over the custody to the petitioner, who is the natural guardian as well as the mother of the detenu.

For petitioner : Mr.D.R.Murugesan

For respondents 1 & 2 : Mr.R.Ramachandran,
Additional Public Prosecutor

For respondents 3 & 4 : Mr.D.Ramesh Kumar

ORDER

(Order of the Court was made by P.R.SHIVAKUMAR, J)

In execution of the Non-Bailable Warrant issued by this Court, the third and fourth respondents have been produced before the Court along with the child minor Nikashvaran, aged about 3 years. The petitioner is the daughter-in-law of the respondents 3 and 4 and their son Tamilselvan is the husband of the petitioner.

<https://hcservices.ecourts.gov.in/hcservices/>

2.The petitioner submits that while child was in her womb, her husband Tamilselvan deserted her and all along she was left in the



house of her parents. It is her further submission that all of a sudden, the child was missing and he was found in the custody of the respondents 3 and 4. After lodging a complaint with the second respondent, she knocked at the door of this Court with the above Habeas Corpus Petition.

3. The third respondent Manian and the fourth respondent Meenambal, who are personally present in the Court, submit that they are prepared to give the custody of the child to his mother Prema. The learned counsel for the third and fourth respondents submits that a Guardian Wards Original Petition in G.W.O.P.No.5 of 2015 filed by the respondents 3 and 4 is pending on the file of the learned Principal District Judge, Thiruvarur. However, the learned counsel fairly admits that such a Guardian Wards Original Petition came to be filed only after the filing of the present Habeas Corpus Petition before this Court.

4. Since the boy is aged 3 years, the mother, being the natural guardian, shall have the preferential right to have the custody of the minor son. The respondents 3 and 4 are also prepared to hand over the custody of the minor boy to his mother viz., the petitioner. Accordingly, in the open Court, custody of the minor boy is entrusted to his mother / petitioner. The same is recorded and the Habeas Corpus Petition is accordingly disposed of. It is made clear that the right of the father of the minor boy or the grandparents viz., the respondents 3 and 4 to move an appropriate forum for the custody of the child alleging disqualification on the part of the mother will not be affected by the order of this Court.

Sd/-

Assistant Registrar (C.S. -II)

/True Copy/

Sub Assistant Registrar

To

- 1.The Superintendent of Police, Thanjavur District, Thanjavur.
- 2.The Inspector of Police, All Women Police Station, Pattukottai, Thanjavur District.
- 3.The Additional Public Prosecutor, Madurai Bench of Madras High Court, Madurai.

Copy to : The Principal District Judge,
Thiruvarur.

+1cc to Mr.D.R.Murugesan, Advocate Sr.No.63460

+1cc to Mr.S.Dheenadhayalan, Advocate Sr.No.67572

akm/08.12.12/2p-7c/SK/SKN/SAR-I