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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.10.2015

CORAM:

THE HONOURABLE MR.JUSTICE S.NAGAMUTHU

and

THE HONOURABLE MR.JUSTICE V.S.RAVI

H.C.P (MD) No.1488 of 2015

and M.P.No.2 of 2015

Ramesh

.. Petitioner

Vs.

1.The Principal Secretary

Home Department,
State of Tamil Nadu
Secretariat,
Fort St. George,

2.The State of Tamil Nadu

rep. by
the Principal Secretary,
Health and Family Welfare Department
Fort St. George, Chennai.

3.The Director General of Police,

Office of the Director General of Police
Dr.Radhakrishnan Road,
Chennai.

4.The Additional Director General of Police

CBCID, Office of the Additional Director General of Police,
Chennai.

5.The Commissioner of Police,

Office of the Commissioner of Police
Madurai City, Madurai.

6.The Dean

Madurai Government Rajaji Hospital
Madurai.

7.The Inspector of Police

B15 Mathichiyam (Law and Order) Police Station,
Madurai City, Madurai.

.. Respondents

Habeas Corpus Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus to direct the respondents to produce the body and person of petitioner's son namely, Dinesh son of Ramesh, aged 9 years (at the time of missing aged 3 months) before this Court and handed over the custody of the detenu to the petitioner.



For Petitioner
For Respondents

: Mr.R.Alagumani
: Mr.K.S.Duraipandian
Addl.Public Prosecutor

ORDER

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

The petitioner is the father of the child by name one Dinesh. The wife of the petitioner was one Mrs.Muthulakshmi. Mrs.Muthulakshmi was admitted at the Government Rajaji Hospital, Madurai for delivery. On 15.06.2006, the child Dinesh, detenu herein, was born. After the birth of the child, the petitioner was advised by the Doctors to bring the child again after three months for doing surgery on the child. Accordingly, the child was taken to the Government Rajaji Hospital on 22.08.2006. The child was admitted as inpatient. But from the hospital, the child was taken away by some unidentified persons. In this regard, the petitioner's wife made a complaint to the 7th respondent on 03.08.2006, upon which, a case has been registered in Crime No.678 of 2006 for child missing. The case is under investigation. But so far, the child has not been secured.

2. The petitioner's wife died in the month of May 2015. The petitioner has got another child by name Ganesh Babu. The petitioner has got proposal for second marriage next month. He is taking care of the other child Ganesh Babu. According to him, he was under the impression that the case in Crime No.678 of 2006 is under investigation. But now, from the newspaper reports, he has come to know that this Court in HCP (MD) No.836 of 2013 has directed the Government to pay compensation to the petitioner also. After that, he has come to know that his case was closed and therefore, he has come up with this Habeas Corpus Petition.

3. In this matter, the learned Additional Public Prosecutor took notice on 16.10.2015.

4. Today, when the matter was taken up, the petitioner was present before this Court. He was represented by the learned counsel for the petitioner. The Inspector of Police, Mathichiyam Police Station is also present. On instructions, the learned Additional Public Prosecutor would submit that as directed by this Court in HCP (MD) No.836 of 2013, the Government is ready to pay Rs.3 lakhs as compensation to the petitioner. Since the petitioner is going to have another marriage and since there is doubt as to whether he would maintain Ganesh Babu, as his first wife Mrs.Muthulakshmi is no more, they have not drawn the draft so far.

5. When this was pointed out, the petitioner submitted that the said amount may be kept in fixed deposit in a Nationalised Bank in the name of Ganesh Babu duly represented by the petitioner and the petitioner may be directed to draw periodic interest. He would further submit that the fixed deposit amount shall be paid to Ganesh Babu on his attaining majority. It is further directed that the case in Crime No.678 of 2006 shall be reopened to trace the child.

<https://hcservices.ecourts.gov.in/hcservices/>
6. In view of the above, this Habeas corpus Petition is disposed of with the following direction:

(i) The respondent police shall reopen the case in Crime No.678 of 2006 and take efforts to trace out the missing child.

(ii) The Government shall pay Rs.3 lakhs as compensation as ordered earlier by submitting a demand draft in the name of Ganesh Babu duly represented by his guardian and next friend Mr.Ramesh and submit the draft to the Registrar (Administration) of this Court.

(iii) The Registrar (Administration) shall, in turn, hand over the said Draft to the Branch Manager, Indian Bank, High Court Branch, who shall issue a fixed deposit receipt for the same and the said amount shall be kept in fixed deposit initially for three years in the name of Minor Ganesh Babu, represented by Mr.Ramesh, the petitioner herein and the period of deposit shall be thereafter extended periodically until the minor Ganesh Babu attains majority.

(iv) The periodic interest shall be paid to Mr.Ramesh and he in turn, shall spend the same for the upkeep of minor Ganesh Babu.

(v) It is further directed that the bank shall pay the principal amount to Mr.Ganesh Babu on his attaining majority without reference to this Court.

(vi) The Bank shall hand over the fixed deposit receipt through the Registrar (Administration) of this Bench to the petitioner herein. Consequently, connected Miscellaneous Petition M.P.No.2 of 2015 is closed.

Sd/-

Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

1.The Principal Secretary
Home Department,
State of Tamil Nadu
Secretariat,
Fort St. George,

2. The Secretary to Government Home,
Prohibition and Excise Department Fort Saint George, Chennai - 9.

3.The Principal Secretary,
Health and Family Welfare Department
Fort St. George, Chennai.

4.The Director General of Police,
Office of the Director General of Police
Dr.Radhakrishnan Road,
Chennai.

5.The Additional Director General of Police
CBCID, Office of the Additional Director General of Police,
Chennai.

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6.The Commissioner of Police,
Office of the Commissioner of Police
Madurai City, Madurai.



7.The Dean
Madurai Government Rajaji Hospital
Madurai.

8.The Inspector of Police
B15 Mathichiyam (Law and Order) Police Station,
Madurai City, Madurai.

9.The Branch Manager,
Indian Bank, High Court Branch,
Madurai.

10.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Copy to
The Registrar (Administration),
Madurai Bench of Madras High Court, Madurai.

+1cc to M/S. R.Alagumani, Advocate in SR.No. 63085

TS/17.11.2015/4P-13C/AN-MP

ORDER MADE IN
H.C.P (MD) No.1488 of 2015

27.10.2015