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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 04.06.2015

Coram

THE HONOURABLE MR. JUSTICE A.SELVAM

AND

THE HONOURABLE MR. JUSTICE V.S.RAVI

H.C.P. (MD) No.462 of 2015

Srihasini

.. Petitioner

Vs.

1.The Commissioner of Police,
Madurai.

2.The Inspector of Police,
All women Police Station,
Tallakulam, Madurai District.

3.Ughesh @ Ughendran

4.Sathish

.. Respondents

Habeas Corpus Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus praying to direct the respondents to produce the body of the petitioner's minor son namely Inbajith S/o.Ughesh @ Ughendran aged about 2 1/2 years before this Court and to hand over custody of the petitioners minor son namely Inbajith to the petitioner.

For Petitioner : Mr.P.Saravanan

For RR - 1 & 2 : Mr.T.Mohan
Addl.Public Prosecutor

For RR - 3 & 4 : Mr.V.Sitharanjan Das

ORDER

(Order of the Court was made by **A.SELVAM, J.**)

This Habeas Corpus Petition has been filed under Article 226 of the Constitution of India praying to direct the respondents 1 & 2 to trace out and produce the detenu by name Inbajith, aged 2 ½ years, son of the petitioner and third respondent.

2. The learned counsel appearing for the petitioner has contended that the third respondent as petitioner has filed HMOP No.415 of 2014 on the file of the Sub Court, Poonthamalli against the petitioner for getting divorce. During pendency of the same, the third respondent/petitioner therein has filed Interlocutory Application for getting interim custody of the detenu. Further it is represented that the third respondent has illegally taken custody of the detenu from the petitioner. Under the said circumstances, the present petition has been filed.



3. The learned counsel appearing for the respondents 3 and 4 has equally contended that the petitioner has voluntarily given custody of the detenu to the third respondent. Under the said circumstances, the relief sought for in the petition cannot be granted.

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4. On the basis of the representation made on either side, it is easily discernible that in between the petitioner and third respondent HMOP No.415 of 2014 is pending on the file of the Sub court, Poonthamalli. The present petition has been filed stating that the detenu is under the illegal custody of the third respondent/his father. Considering the fact that the third respondent is the father of the detenu, custody of the detenu cannot be considered as illegal.

5. As pointed out earlier, in between the petitioner and third respondent HMOP No.415 of 2014 is pending on the file of the Sub court, Poonthamalli,, wherein the petitioner can easily work out her remedy. Under the said circumstances, the relief sought for in the petition cannot be granted.

6. In fine, this petition is disposed of on the basis of the observation made earlier. However, it is made clear that the petitioner is at liberty to work out her remedy in HMOP No.415 of 2014.

Sd/-

Assistant Registrar(AS)

/True copy/

Sub Assistant Registrar

To

1.The Commissioner of Police,
Madurai.

2.The Inspector of Police,
All women Police Station,
Tallakulam, Madurai District.

3.The Addl.Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.V.Sitharanjandas,Advocate SR.No.27695

H.C.P. (MD)No.462 of 2015
04.06.2015

mj

PA/SJW/10.06.2015/2P/5C