

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.06.2016

CORAM

THE HON'BLE MR.JUSTICE S.NAGAMUTHU
and
THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

H.C.P.No.1129/2016

S.Selvaganapathy

.. Petitioner

Vs

1. The State rep.by the Inspector of Police,
Chidambaram Town Police Station,
Chidambaram.

2. J.Kanchana

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS directing the 1st respondent to retrieve the petitioner's daughter Jayavadiambal (minor), aged about 2 years and produce her before this Court and hand over to the custody of the petitioner.

For Petitioner : Mr.E.Kotteeswaran

For 1st Respondent : Mr.V.M.R.Rajentren,
Additional Public Prosecutor

ORDER

[Order of the Court was made by S.NAGAMUTHU,J]

The petitioner is the father of the detenu Jayavadiambal, aged about 2 years. Alleging that his wife died in the month of August, 2015, there is a case registered against him in respect of the death of his wife. The investigation is in progress. From the date of the death of the wife of the petitioner, the child (detenu) has been in the custody of the in-laws of the petitioner.

2. According to the petitioner, he has got legal right to have the custody of the child and since the child is kept by the 2nd respondent, his sister-in-law, he has come up before this

Court with this Habeas Corpus Petition.

3. We have heard the learned Counsel for the petitioner and the learned Additional Public Prosecutor appearing for the 1st respondent and we have also perused the records carefully.

4. Admittedly, there is a case registered against the petitioner under Section 304-B of IPC relating to the death of his wife. Thus, he is an accused. The question as to whether the interest of the child would be protected by handing over the child to the petitioner or not is the matter to be decided only by a competent civil court. In this Habeas Corpus Petition, the same cannot be decided. Since the petitioner has got such a legal remedy before the civil court, we are not inclined to grant the direction as prayed for by the petitioner.

5. In the result, the Habeas Corpus Petition fails and the same is accordingly dismissed with liberty to the petitioner to work out his remedy in the manner known to law.

Sd/-
Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

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To

1. The Inspector of Police,
Chidambaram Town Police Station,
Chidambaram.

2. The Public Prosecutor,
High Court, Madras.

1 cc to Mr.E.Kotteeswaran, Advocate, sr.29958

H.C.P.No.1129/2016

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