

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30-06-2016

CORAM

THE HONOURABLE MR.JUSTICE S.NAGAMUTHU
AND
THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

H.C.P.No.1180 of 2016

Mrs.Geetha

... Petitioner

-Vs-

1. The Inspector of Police,
T14, Mangadu Police Station,
Mangadu,
Chennai -600 122.

2. Mr.Anil Kumar

... Respondents

Petition under Article 226 of the Constitution of India, praying for issuance of a writ of Habeas Corpus, directing the 1 & 2 respondents to produce the petitioner's daughter Anitha, aged 10 years, who is illegally detained by the first respondent, before this Court and hand over custody to the petitioner.

For petitioner : Mr.Auxilia Peter

For respondent 1 : Mr.V.M.R.Rajendran,
Additional Public Prosecutor

For respondent 2 : Mrs.D.Kamatchi

O R D E R

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

The petitioner is the mother of one Ms.Anitha, aged 10 years. The second respondent is the husband of the petitioner. According to the petitioner, the second respondent has been detaining the child Ms.Anitha illegally. Therefore, she has come up with this Habeas Corpus Petition.

2. Today, when the matter was taken up in the morning session, the petitioner appeared before this Court. The second respondent also made appearance along with the detinue. We enquired the detinue. The detinue told that she was interested only to live with her father and she would never go to her mother. We explained to her everything, but

she was very firm that she would go only with her father. We even allowed the petitioner to talk to the child in our presence in open Court. The petitioner also tried to persuade the child. The child was very firm and she did not agree to go with her mother. The child told before us that the petitioner could come and join the second respondent so that they could live together. Since it was a sensitive family issue, we referred the matter for mediation. The parties appeared before the mediation, but the Mediators have submitted a report that the parties are unable to arrive at any amicable settlement.

3. When the matter was taken up in the afternoon session after receipt of the report from the Mediation Centre, we again tried to persuade the parties to join together, so that the detainee/child could be brought up properly. The petitioner posed certain conditions, for which the second respondent is not agreeable. It appears, there is no chance at all for any settlement before this Court. We are concerned in this Habeas Corpus Petition only in respect of the welfare of the child. We cannot compel the child to go with her mother, when the child is saying that she is willing to go only with her father.

4. In such view of the matter, the remedy for the petitioner is to work out through the appropriate civil forum. Therefore, this Habeas Corpus Petition is dismissed, leaving it open for the petitioner to work out her remedy before the Civil Court. The detainee/child shall be taken back by the second respondent.

Sd/-
Assistant Registrar(CS II)

//True Copy//

सत्यमेव जयते
Sub Assistant Registrar

dixit

To

1.The Inspector of Police,
T14, Mangadu Police Station,
Mangadu, Chennai -600 122.

2.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.Auxilia Peter, Advocate, S.R.No.37718
+1cc to M/s.D.Kamatchi, Advocate, S.R.No.37253

H.C.P.No.1180 OF 2016

RD(CO)

CA(22-07-2016)