

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.08.2016

CORAM:

THE HONOURABLE MR.JUSTICE S.NAGAMUTHU

and

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

H.C.P.No.1728 of 2016

Mr. Senthilathiban

.. Petitioner

vs.

1. State rep. by
The Inspector of Police,
Selaiyur Police Station,
Chennai.
(CSR.No.699 of 2016)

2. Mrs.Sharmila

3. Mr.Sriram

4. Mr.Velrajan

.. Respondents

Prayer : Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of habeas corpus directing the 1st respondent to produce the body of the detenue, the petitioner, minor son Shunmughilan, aged 8 years, who is in illegal detention of respondents 2 to 4 in person before this Court.

For Petitioner
For Respondents

.. Mr.R.Dillikumar
.. Mr.V.M.R.Rajentren,APP

ORDER

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

The petitioner is the father of a minor child by name Shunmughilan,

aged 8 years. The 2nd respondent is the wife of the petitioner and the 3rd and 4th respondents are his in-laws. The child is now in the custody of the 2nd respondent. According to the petitioner, it is illegal and therefore, he has come up with this Habeas Corpus Petition.

2. We have heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing on behalf of the first respondent and we have also perused the records carefully. We have not ordered notice to respondents 2 to 4.

3. A perusal of the affidavit filed by the petitioner would go to show that already there is a matrimonial dispute between the petitioner and the 2nd respondent in H.M.O.P.No.466 of 2013 for restitution of conjugal rights. There is also a petition filed by the petitioner for the custody of the minor child in G.W.O.P.No.14 of 2015 which is pending before the Principal Sessions Judge, Chengalpet. When that be so, we are unable to understand as to how the petitioner would be justified in approaching this Court under Habeas Corpus Petition jurisdiction seeking custody of the child.

4. In our considered view, the custody of the child with the second respondent cannot be termed as illegal for the purpose of entertaining the

Habeas Corpus Petition.

5. Therefore, this Petition is dismissed.

[S.N., J.] [V.B.D.,J.]
17.08.2016

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To

1. The Inspector of Police,
Selaiyur Police Station,
Chennai.

2. The Public Prosecutor, High Court, Madras.

S.NAGAMUTHU, J.,
AND
V.BHARATHIDASAN, J.,
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