

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.09.2016

CORAM:

THE HON'BLE MR.JUSTICE A.SELVAM
AND
THE HON'BLE MR.JUSTICE P.KALAIYARASAN

H.C.P.No.1751 of 2016

Mrs.P.Mythili ... Petitioner /Mother of
the Detenu

vs.

1.The State, rep.by
Commissioner of Police,
Greater Chennai,
Vepery, Chennai-600 007

2.The State, rep.by its
Inspector of Police(Law and Order)
F.5, Choolaimedu Police Station,
Greater Chennai.

3.G.Parthiban

4.G.Balasubramaniam

5.A.Sakthivel

6.S.Sridharan

... Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of habeas corpus directing the respondents to produce the minor child P.Vipul, before this Court and hand him over to the petitioner.

For Petitioner :Mr.S.Prashanth

For Respondents :Mr.V.M.R.Rajentren,
A.P.P.for R1 and R2

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 and 2 to trace out and produce the detenu, by name, P.Vipul, aged 2 1/2 years, son of the petitioner and third respondent.

<https://hcservices.ecourts.gov.in/hcservices/>

2. It is averred in the petition that the petitioner is the wife of third respondent, by name, G.Parthiban. Further it

is averred in the petition that on 29.7.2016, at about 7.25 a.m., the respondents 3 to 6 have forcibly entered into the house of the petitioner and kidnapped the minor child by name, P.Vipul, and subsequently, a police complaint has been given, but the police have not taken effective steps and under the said circumstances, the present petition has been filed for getting the relief sought therein.

3. The learned counsel appearing for the petitioner has initially made his appearance and after passover, this petition has been called in open Court by 11.45 a.m., but the learned counsel appearing for the petitioner has not made his appearance.

4. The learned Additional Public Prosecutor has represented that a dispute has been in existence between the petitioner and third respondent. The third respondent is none other than the petitioner's husband.

5. As adverted to earlier, the specific case of the petitioner is that the respondents 3 to 6 have kidnapped the detenu.

6. It is an admitted fact that the third respondent is the father of the detenu and the petitioner is his mother.

7. Considering the relationship between the petitioner and third respondent and also detenu, this Court is of the view that the custody of the third respondent cannot be treated as illegal.

8. It has already been pointed out that the third respondent is the father of the detenu and he is also a natural guardian and he is entitled to have custody of the detenu. If really the petitioner wants to have legal custody of the detenu, she has to approach appropriate forum and therefore, the relief sought in the petition cannot be granted and altogether, the present petition deserves to be dismissed.

9. In fine, this petition is dismissed. However, the petitioner is at liberty to file a proper petition before proper forum for getting the legal custody of the detenu.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

To

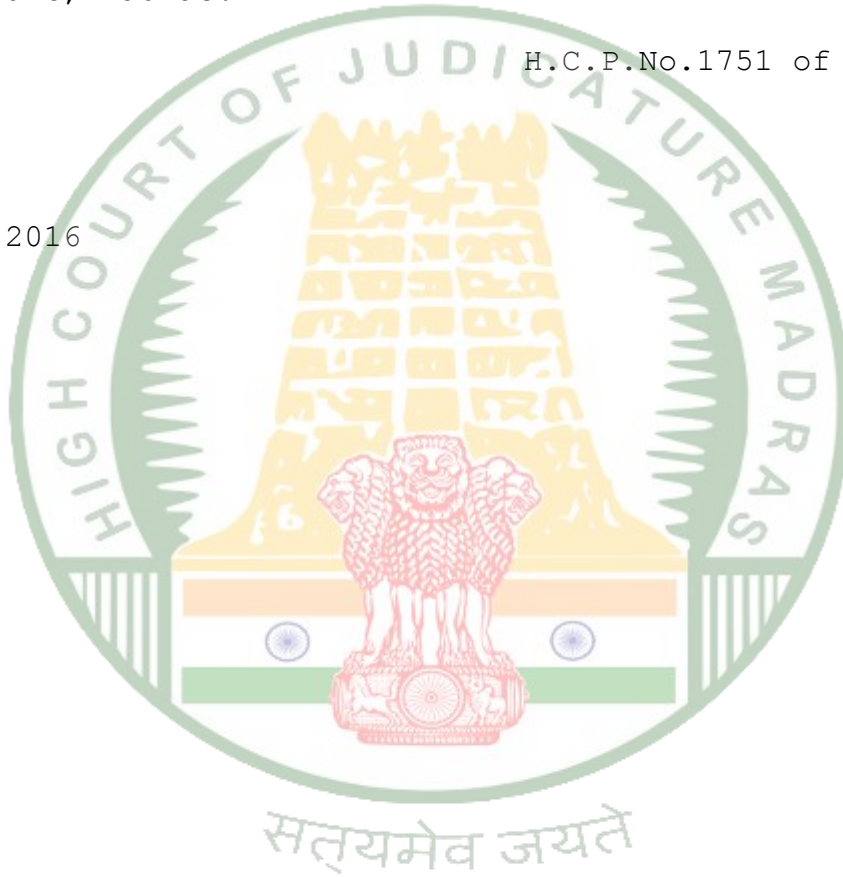
1.The Commissioner of Police,
Greater Chennai,
Vepery, Chennai-600 007

2.The Inspector of Police(Law and Order)
F.5, Choolaimedu Police Station,
Greater Chennai.

3.The Public Prosecutor,
High Court, Madras.

H.C.P.No.1751 of 2016

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