

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.02.2016

Coram:

THE HON'BLE MR.JUSTICE S.NAGAMUTHU
and
THE HON'BLE MR.JUSTICE M.SATHYANARAYANAN

H.C.P.No.181 of 2016

Parameswari

.. Petitioner

vs.

1.The Superintendent of Police
Cuddalore District
Cuddalore.

2.The Inspector of Police
Ramanatham Police Station
Cuddalore District.

3.Ramasamy

... Respondents

Habeas Corpus Petition has been filed under Article 226 of the Constitution of India for a Writ of Habeas Corpus, directing the respondents 1 and 2 to produce the detenus (1) Akash, aged about 15 years and (2) Adhesh, aged about 10 years, who are now under the illegal custody of the third respondent and handover the minor children to the petitioner, who is the natural guardian and mother of the minor children, to secure the ends of justice.

For petitioner

:R.Sankarasubbu
for Mr.M.Velmurugan

For respondents

:Mr.V.M.R.Rajentran,
Additional Public Prosecutor
for R.1 and R.2
Ms.S.Susheela Devi
for R.3

O R D E R

(Order of the Court was made by M.SATHYANARAYANAN, J)

The petitioner is the mother of the minor children, viz., (1) Akash, aged about 15 years and (2) Adhesh, aged about 10 years, and she has come forward to file the present Habeas Corpus Petition seeking their production and to handover their custody to her.

2. Mr.R.Sankarasubbu, the learned counsel appearing for the petitioner, would submit that though, the petitioner is arrayed as an accused in Crime No.270 of 2014 registered by Ramanatham Police Station for the alleged commission of offence under Section 302 IPC said to have taken place on 10.11.2014, the fact remains that the petitioner is the mother and natural guardian of the minor children and on account of her arrest and incarceration, the custody of the minor children had been handed over to her brother-in-law. Since, she came out on bail, she is entitled to take custody of the minor children and hence, prays for appropriate orders.

3. Per contra, Mr.V.M.R.Rajentran, the learned Additional Government Pleader, appearing for the respondents 1 and 2, would submit that the minor child Adhesh is the eye witness to the occurrence and the other child Akash is also cited as one of the witness to speak about the motive. In the event of the custody of the minor children being handed over to the petitioner, there is likelihood of tampering with the witnesses. It is to be noted that only the 3rd respondent, being the Uncle of the minor children, is taking care of them. Today, the minor children were produced before this Court and the Court made an enquiry. Both of them stated that they are willing to stay with the 3rd respondent.

4. In the light of the above facts and circumstances, this Court is of the view that the relief sought for by the petitioner cannot be granted. Therefore, the Habeas Corpus Petition is dismissed, however, liberty is granted to the petitioner to work out her further remedy in accordance with law.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

paa

To

1.The Superintendent of Police
Cuddalore District
Cuddalore.

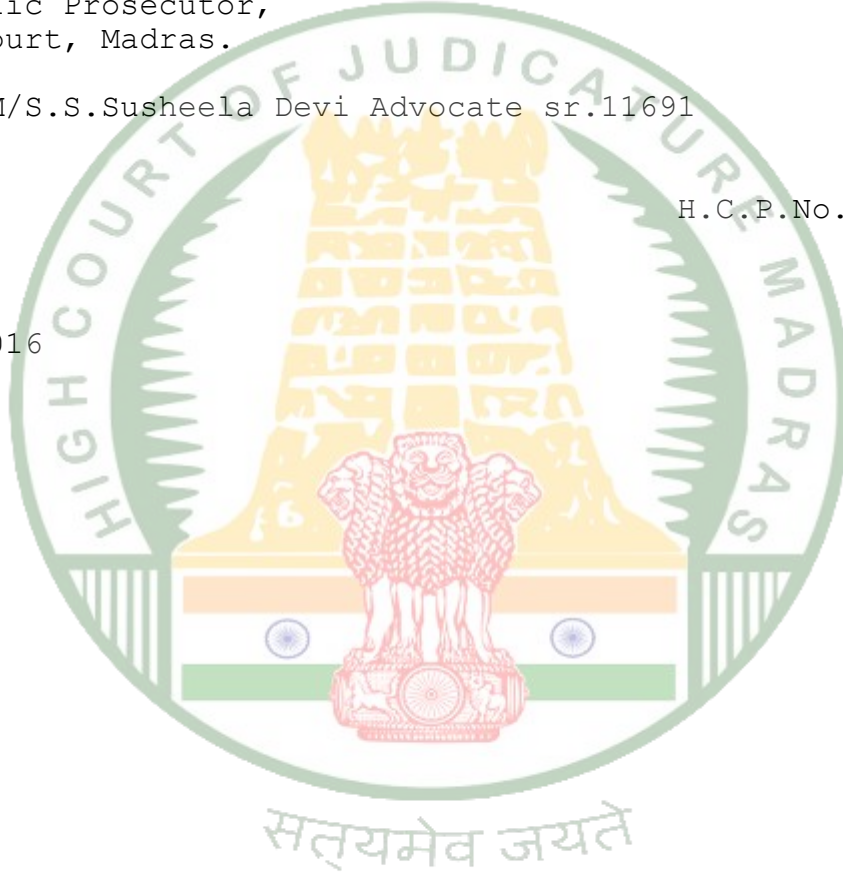
2.The Inspector of Police
Ramanatham Police Station
Cuddalore District.

3.The Public Prosecutor,
High Court, Madras.

+1 cc to M/S.S.Susheela Devi Advocate sr.11691

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