

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.03.2016

Coram:

THE HONOURABLE MR.JUSTICE M.JAICHANDREN
and
THE HONOURABLE MR.JUSTICE S.NAGAMUTHU

H.C.P.No.191 of 2016

Latha

.. Petitioner

vs.

1. The State of Tamil Nadu
rep. by the Commissioner of Police,
Chennai.
2. The Inspector of Police,
All Women Police Station,
Anna Nagar, Chennai.
3. Venkatesan

.. Respondents

Petition filed for issuance of the writ of Habeas Corpus, directing the respondents to produce the daughter of the petitioner, namely, Swetha, aged 10 years, residing at No.7, Jayammal Street, Aminjikarai, Chennai, before this Court.

For petitioner : Mr.S.Shankar

For Respondents : Mr.V.M.R.Rajentran,
1 and 2 Addl. Public Prosecutor (Crl.side)

For 3rd respondent : Mr.S.S.Karthikeyan

O R D E R

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

Heard the learned Counsel appearing on behalf of the petitioner, the learned Additional Public Prosecutor appearing on behalf of the respondents 1 and 2, and the learned Counsel appearing on behalf of the 3rd respondent.

2. This Habeas Corpus Petition has been filed by the mother of the detainee, namely, Swetha, aged about 10 years, praying that this Court may be pleased to direct the production of the minor girl, before this Court and hand over her custody

to the petitioner.

3. The petitioner has stated that she had married the 3rd respondent during the year 2000. Two girl children, namely, Krithika, aged about 13 years and Swetha, aged about 10 years, were born out of the wedlock. Due to certain matrimonial disputes, the petitioner and the 3rd respondent had separated and a case for divorce had been filed, by the 3rd respondent, before the Principal Family Court, Chennai, in O.P.No.3794 of 2014. It has also been stated that the petitioner has filed a petition for restitution of conjugal rights, against the 3rd respondent, before the said court. Both the said petitions are pending before the Principal Family Court at Chennai. While so, it has been alleged by the petitioner that the 3rd respondent had taken away the minor girl of the petitioner, namely, Swetha, aged about 10 years and keeping her in illegal custody.

4. When the matter had come up for hearing on an earlier occasion, this Court had referred it to the Tamil Nadu Mediation and Conciliation Centre, attached to the High Court of Madras, to attempt an amicable settlement. However, from the mediation report, filed before this Court, dated 24.02.2016, it is noted that the parties were unable to arrive at an amicable settlement in the matter.

5. Today, when the matter was taken up for hearing, the learned Counsel, appearing on behalf of the petitioner, had requested that in the given circumstances of the case, this Court may be pleased to direct the Principal Family Court, Chennai, to hear and dispose of the I.A.No.1240 of 2015, in O.P.No.3794 of 2014, praying for interim custody of the child, filed by the petitioner, at an early date.

6. The learned Counsel appearing on behalf of the 3rd respondent has no objection for this Court passing such an order. The learned Counsel for the 3rd respondent had also submitted that the minor child, namely, Swetha, will be produced before the Principal Family Court, Chennai, during the hearing of I.A.No.1240 of 2015.

7. Since the dispute involved in this Habeas Corpus Petition is that the 3rd respondent is alleged to have fraudulently taken away the minor child, Swetha, from the custody of the petitioner herein, we are of the considered view that the relief prayed for, by the petitioner, in the present petition, cannot be granted by this Court, as such, disputed facts ought to be decided only by the appropriate court, in the manner known to law.

8. Accordingly, we find it appropriate to direct the Principal Family Court, Chennai, to hear and dispose of the

I.A.No.1240 of 2015, in O.P.No.3794 of 2015, as expeditiously as possible, more preferably, within a period of eight weeks from the date of receipt of a copy of this Order. It is made clear that the 3rd respondent herein, shall produce the minor child, namely, Swetha, aged about 10 years, before the Principal Family Court, Chennai, during the hearing of I.A.No. 1240 of 2015 in O.P.No.3794 of 2015 .

9. With the above observation, the Habeas Corpus Petition is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To:

1. The Commissioner of Police,
Chennai.
2. The Inspector of Police,
All Women Police Station,
Anna Nagar, Chennai.
3. The Additional Public Prosecutor,
High Court Madras

+1 cc to Mr.S.S.Karthikeyan Advocate sr.14377
+1 cc to Mr.Saddiq Ali Advocate sr.14498

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