

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 08.03.2016

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THE HONOURABLE MR. JUSTICE M.JAICHANDREN

AND

THE HONOURABLE MR. JUSTICE S.NAGAMUTHU

HCP No.408 of 2016

M.Z.Fakrudin Hussaini .. Petitioner

Vs

1.The Director General of Police,
Santhome, Chennai, Tamilnadu.

2.The Commissioner of Police,
Commissionerate Office,
Vepery, Chennai-600 007.

3.The Superintendent of Police,
Cuddalore District,
Cuddalore.

4.Anisa Begum ... Respondents

Habeas Corpus Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Habeas Corpus directing the respondents 1 to 3 to produce the detenus minor children Tasmiya Taj (age 11 years) and Yafarah Taj (age 9 years) before this Court and the said detenu children daughters of M.Z.Fakrudin Hussaini, before this Court and set them liberty forthwith.

For Petitioner : Mr.M.J.Nissar Ahmed

For RR 1 to 3 : Mr.V.M.R.Rajentren
Addl. Public Prosecutor

ORDER

Mr.V.M.R.Rajentren, the learned Additional Public Prosecutor takes notice on behalf of the respondents.

2.The present petition has been filed by the petitioner / father of the detenues Tasmiyah Taj, aged about 11 years and Yafarah Taj, aged about 9 years, respectively, to cause production of his daughters, before this Court and to handover their custody to the petitioner.

3.Heard the learned counsel for the petitioner, as well as the learned Additional Public Prosecutor appearing on behalf of the respondents 1 to 3 and also perused the materials placed before this Court.

4.It has been stated that the petitioner has married with the fourth respondent, on 01.12.2001, at Parankipettai, Cuddalore District, as per Muslim rites and customs. However, due to the matrimonial disputes, the fourth respondent left her matrimonial home, along with her two minor daughters. Therefore, the petitioner preferred a police complaint to the respondents 1 to 3, under Sections 154(3) of the Code of Criminal Procedure. However, as no steps have been taken by the respondent police, the petitioner has filed this Habeas Corpus Petition before this Court.

5.At this stage of the hearing of the Habeas Corpus Petition, the learned counsel appearing on behalf of the petitioner had submitted that the fourth respondent had filed a petition in O.P.No.48 of 2015, before the Family Court, Chennai, praying for divorce. The petitioner has also filed a petition for visitation rights of the minor children.

6.In view of the averments made in the affidavit filed in support of the petition and in view of the submissions made by the learned counsel for the petitioner, we are of the considered view that the relief prayed for by the petitioner cannot be granted. It is noted that the fourth respondent has filed a petition, in O.P.No.48 of 2015, before the Family Court, Chennai, seeking for divorce against the petitioner. The petitioner has also preferred a petition for visitation rights of his minor daughters. In such circumstances, we find no merit in this Habeas Corpus Petition and accordingly, this petition stands dismissed, at the admission stage itself. However, it is open to the petitioner to pursue his remedy, if any, before the appropriate Court, in accordance with law.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1.The Director General of Police,
Santhome, Chennai, Tamilnadu.

2.The Commissioner of Police,
Commissionerate Office,
Vepery, Chennai-600 007.

3.The Superintendent of Police,
Cuddalore District,
Cuddalore.

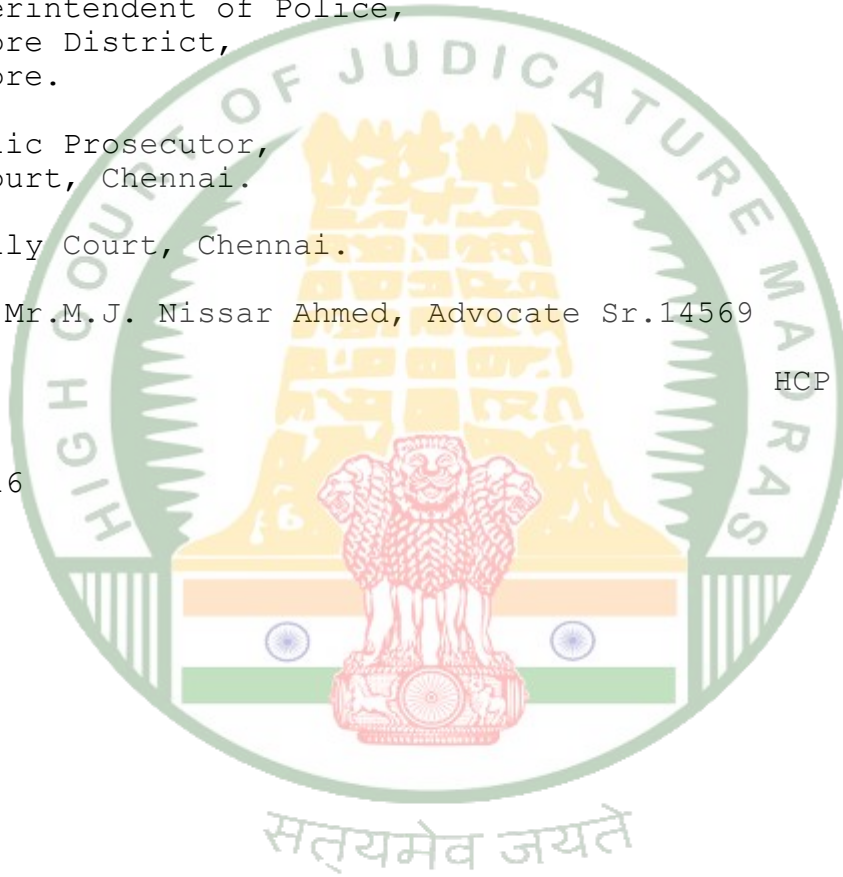
4.The Public Prosecutor,
High Court, Chennai.

5 The Family Court, Chennai.

+ 1 cc to Mr.M.J. Nissar Ahmed, Advocate Sr.14569

HCP No.408/2016

SKV(CO)
Eu 30.03.16



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