

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.04.2016

Coram:

THE HON'BLE MR.JUSTICE M.JAICHANDREN
and
THE HON'BLE MR.JUSTICE P.KALAIYARASAN

H.C.P.No. 917 of 2016

Bhuvaneswari .. Petitioner
vs.

1.The State of Tamil Nadu
Rep. by the Superintendent of Police
Salem District
Salem.

2.The Inspector of Police
Veeraganur Police Station
Salem District.

2.P.Perumal .. Respondents

Habeas Corpus Petition has been filed under Article 226 of the Constitution of India for a Writ of Habeas Corpus, directing the respondents to produce the body of the petitioner's minor daughter, namely, Durga Devi, aged about 5 years, before this Court and to set her at liberty.

For petitioner :Mr.C.K.M.Appaji

For respondents :Mr.V.M.R.Rajentran,
Addl. Public Prosecutor
for R.1 and R.2

* * *

O R D E R

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

This Habeas Corpus Petition has been filed, by the mother of the detainee, praying that this Court may be pleased to issue a Writ of Habeas Corpus, to direct the respondents to produce the petitioner's minor daughter, namely, Durga Devi, aged about 5 years, before this Court, and to set her at liberty.

2. The petitioner has stated that, she had married the 3rd respondent, namely, P.Perumal, on 12.12.2005. Out of the said wedlock, two children, namely, Vasantha Kumar and Durga Devi, were born, on 28.01.2007 and 16.10.2009, respectively. Due to certain misunderstanding between the petitioner and the 3rd respondent, who is her husband, the petitioner had left the matrimonial home and she is living with her parents. The daughter of the petitioner was studying in Ist standard, at Vivekananda School, Veeraganur, at Ramanathapuram. While so, the 3rd respondent had taken away the detinue, namely, Durga Devi, on 16.04.2016, and is keeping her in illegal custody. Therefore, the petitioner had preferred a complaint before the 2nd respondent police, on 17.04.2016 and the said complaint had been given a C.S.R. number. Since, no effective steps had been taken, by the 2nd respondent police, to trace the detinue and to hand over her custody to the petitioner, the petitioner has preferred the present Habeas Corpus Petition, before this Court.

3. We have heard Mr.C.K.M.Appaji, the learned counsel appearing on behalf of the petitioner; Mr.V.M.R.Rajentren, the learned Additional Public Prosecutor appearing on behalf of the respondents 1 and 2; and we have also perused the records available before this Court.

4. In view of the averments made in the affidavit filed in support of the petition, and on a perusal of the records placed before us, we are of the considered view that it is for the petitioner, to seek her remedy, if any, before the appropriate forum, with regard to the custody of her minor daughter, namely, Durga Devi, in the manner known to law. We are of the view that this court cannot grant the relief, as prayed for by the petitioner, in the present Habeas Corpus Petition. Hence, the present Habeas Corpus Petition stands closed. However, we make it clear that it is open to the petitioner, to seek her remedy, if any, before the appropriate forum, in the manner known to law.

paa

s/d-

Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

To

1.The Superintendent of Police
Salem District
Salem.

2.The Inspector of Police
Veeraganur Police Station
Salem District.

3.The Public Prosecutor
High Court, Madras.

+ 1 cc to Mr.C.K.M.Appaji, Advocate SR 27550

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