

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. 935 of 2016

Nathiya

... Petitioner

Vs.

1. State represented by
The Superintendent of Police
Dharmapuri Police Station
Dharmapuri.

2. The Inspector of Police
Dharmapuri Police Station
Dharmapuri.

3. T.M.Arulanandham

4. M.A.Elangovan

... 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 body of the petitioner's minor daughters, by name, Vithika and Krishika, aged about 10 and 5 years respectively, before this Court and to set them at liberty.

For petitioner : Mr.J.Kumaran

For respondents : Mr.V.M.R.Rajentren,
Additional Public Prosecutor
for R.1 and R.2

WEB COPY
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 detainees, praying that this Court may be pleased to issue a Writ of Habeas Corpus, to direct the respondents 1 and 2 to produce the petitioner's minor daughters, namely, Vithika and Krishika, aged about 10 and 5 years respectively, before this Court and to set them at liberty.

2. The petitioner has stated that, she had married one Dhinakaran, on 06.06.2004. After their marriage, they had been living in their matrimonial home, at Salem. Thereafter, they had shifted to Hosur, due to the employment of her husband. Out of the said wedlock, two children, namely, Vithika and Krishika, were born, on 28.01.2007 and 14.08.2011, respectively. The husband of the petitioner was a drunkard and he had also illicit relationship with some women. Therefore, the petitioner had filed a divorce petition before the Family Court, Dharmapuri. While so, the husband of the petitioner, had died, on 11.04.2015. Thereafter, the children of the petitioner had been taken away by the respondents 3 and 4, who are the father-in-law and brother-in-law of the petitioner, respectively. Therefore, the petitioner had given a complaint before the 2nd respondent police, on 17.03.2016, through registered post, with acknowledgment due. Since, no effective steps had been taken, by the 2nd respondent police, to secure her minor children from the custody of the respondents 3 and 4, the petitioner has preferred the present Habeas Corpus Petition, before this Court.

3. We have heard Mr.J.Kumaran, 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 Habeas Corpus 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, to secure the custody of her minor daughters, namely, Vithika and Krishika, 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.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

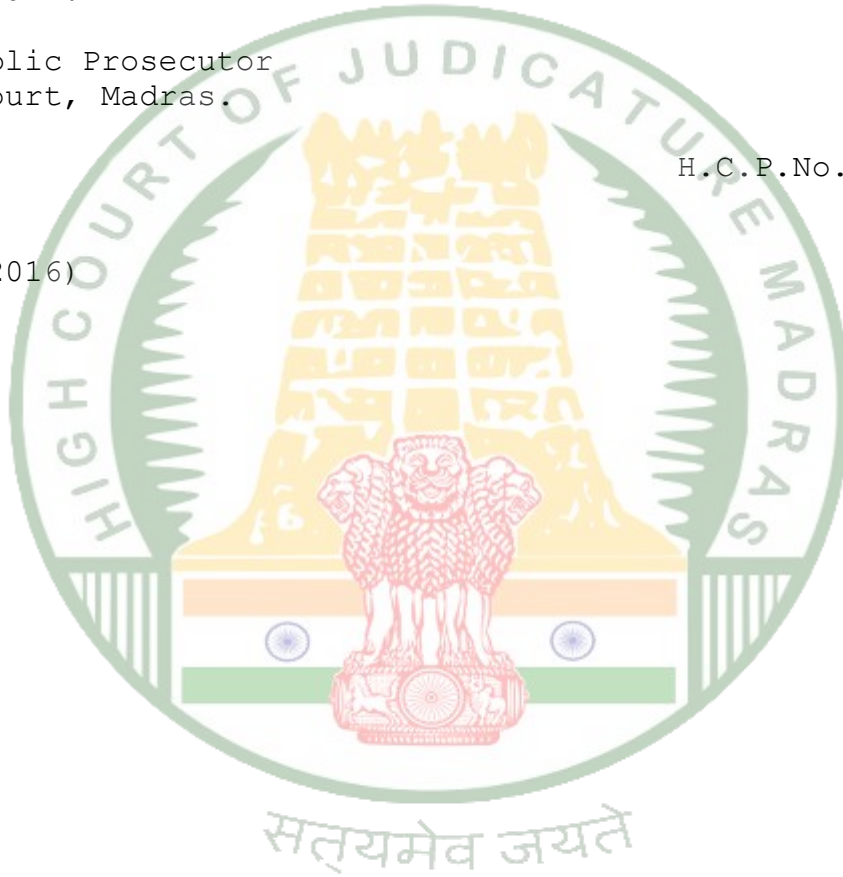
paa

To

1. The Superintendent of Police
Dharmapuri Police Station
Dharmapuri.
2. The Inspector of Police
Dharmapuri Police Station
Dharmapuri.
3. The Public Prosecutor
High Court, Madras.

H.C.P.No.935 of 2016

PPA (CO)
CA(31/05/2016)



WEB COPY