



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.11.2016

CORAM:

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**THE HONOURABLE MR.JUSTICE S.NAGAMUTHU
AND
THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN**

H.C.P. [MD] .No.1356 of 2016

P.Muthukumar

.. Petitioner

Vs.

1.The Commissioner of Police,
O/o.the Commissioner of Police,
Madurai District.

2.The Inspector of Police,
Koodalpudur Police Station,
Madurai City.

3.Sivanantham

.. Respondents

PRAYER: Habeas Corpus Petition is filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, directing the respondents 1 and 2 to produce the person or body of the petitioner's minor daughters namely Mutheeswari (aged 3/16) and Boomika (aged 1/16) D/o.P.Muthukumar before this Hon'ble Court and set them at liberty

For Petitioner : Mr.T.Lajapathi Roy

For respondents : Mr.A.Ramar
1 & 2 Additional Public Prosecutor

For 3rd respondent : Mr.V.Malaiyendran

ORDER

When the matter came up for hearing on 20.10.2016, this Court passed the following order:

**"The petitioner has come up with this Habeas
Corpus Petition alleging that his children, by name
Mutheeswari, aged three years and Boomika, aged one**



year, have been illegally detained by the third respondent, his wife Mrs.Parameswari and their daughter Mrs.Muniyammal.

2. Today, when the Habeas Corpus Petition was taken up for hearing, Mrs.Parameswari and Mrs.Muniyammal appeared before this Court. They had the custody of both the detenus. The petitioner also made appearance. The petitioner wanted to have custody of the children. But, these two women said that they are not prepared to part away with the children. It is also seen that there is a criminal case pending against the mother of the petitioner in Crime No.41 of 2016 for offences under Sections 306 and 498(A) of the Indian Penal Code. It is seen from the records that the wife of the petitioner had committed suicide. Since both parties insist to have custody of the children and since both the children are very young, as an interim measure, we issue the following directions:

(i) The third respondent, Mrs.Parameswari and Mrs.Muniyammal shall produce these two children before the Manager of the Creche, attached to this Court, on every Monday commencing from 07.11.2016 at 10.00 a.m.

(ii) The petitioner shall appear before the said Organization and keep the children in his custody till 01.00 p.m., and thereafter, the children shall be taken back by Mrs.Parameswari and Mrs.Muniyammal and the third respondent.

(iii) The second respondent shall make visits to the house of the third respondent and ensure the safety of the children.

(iv) When the children are produced on Mondays before the Creche, adequate safety and security shall be provided by the Inspector of Police, K.Pudur Police Station, Madurai City.

3. Post the matter on 07.11.2016."

2. Today, when the matter was taken up for hearing, the learned counsel for the petitioner and the third respondent appeared before us along with the children. The children were in the custody of the third respondent and his another daughter. We asked the petitioner to take the children. When the petitioner tried to take the children, both the child refused to go with the petitioner. Therefore, in our considered view, it would not be conducive for the Court to direct the third respondent to hand



over the children to the petitioner. It is for the petitioner to work out his remedy before the appropriate Civil Court.

3. This Habeas Corpus Petition is accordingly dismissed.

Sd/-

Assistant Registrar (Writs)

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/True copy/

Sub Assistant Registrar

To

1. The Commissioner of Police,
O/o. the Commissioner of Police,
Madurai District.

2. The Inspector of Police,
Koodalpudur Police Station,
Madurai City.

Gcg

CSL/SS-2/17.11.2016: 3P/3C

H.C.P. [MD]. No. 1356 of 2016
07.11.2016