



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 02.06.2016

Delivered on : 09.06.2016

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CORAM:

**THE HONOURABLE MR. JUSTICE K.K. SASIDHARAN  
AND  
THE HONOURABLE MR. JUSTICE B. GOKULDAS**

**H.C.P. (MD) No. 579 of 2016**

M. Nagaraj : Petitioner

Vs.

1. The Superintendent of Police,  
Madurai District.

2. The Inspector of Police,  
Kallikudi Police Station,  
Madurai District.

3. The Sub Inspector of Police,  
Kallikudi Police Station,  
Madurai District.

4. Nageshwari

5. Gayathri

6. Lakshmi

7. Jeyaveerapandiyan

8. M. Sanjaikumar

[R-8 suo motu impleaded as party-respondent,  
as per the order of this Court dated 01.06.2016, made in  
H.C.P. (MD) No. 579 of 2016] : Respondents

Prayer: Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Habeas Corpus, directing the respondents to produce the petitioner's daughter named Manya, aged about 1 year and 10 months or her corpse, before this Court and hand over her to the petitioner.

For Petitioner : Mr. M. Gururaj

For Respondents 1 to 3 : Mr. C. Mayilvahan Rajendran,  
Additional Public Prosecutor

<https://hcservices.ecourts.gov.in/hcservices/> For Respondent No. 8 : Mr. A. Anandharaj



**ORDER**  
**K.K.SASIDHARAN, J.**

This Habeas Corpus Petition is filed by the adoptive father of the minor, by name Manya, alleging that she is illegally detained by the eighth respondent.

2. The marriage of the petitioner was solemnized with Tmt.Tamilselvi in 2000. Since the couple had no issues, they have decided to adopt the daughter of Thiru.Sanjaikumar, who is none other than the brother of the petitioner. The child was given in adoption to the petitioner by executing a document on 03 June, 2015. The child was entrusted to the petitioner and his wife immediately after the execution of the adoption deed.

3. According to the petitioner, at about 07.00 a.m., on 01.05.2016, respondents 4 to 7 trespassed into his house along with few others and forcibly took the child in a vehicle bearing Registration No.TN-60-C-6509. The petitioner preferred a complaint before the Kallikudi Police Station. Since there was no follow-up action taken by the police to secure the child, the petitioner has come up with this Habeas Corpus Petition.

4. The biological father of the detenu was not made a party initially. We have, therefore, impleaded him as a party, by order dated 01 June, 2016.

5. When the Habeas Corpus Petition was taken up for hearing on 02 June, 2016, the petitioner and his wife appeared before us. Similarly, the eighth respondent and his wife along with the child also appeared before us.

6. The learned counsel for the petitioner submitted that the child was forcibly taken by the eighth respondent and his men and as such, custody should be given to the petitioner. According to the learned counsel, the process of adoption was complete on account of the execution of the adoption deed and as such, the eighth respondent has no right to detain the child.

7. The eighth respondent appeared before us along with his wife and submitted that the adoption deed was executed by coercion and misrepresentation. The biological mother of the detenu stated that she is in the process of filing suit to set aside the adoption deed as it was executed by coercion and misrepresentation. The eighth respondent and his wife jointly submitted that they were forced to take back the child as she was not properly maintained by the petitioner and his wife.

<https://hcservices.courts.mdy.in/hcservices/>  
8. The petitioner is stated to be the adoptive father of the minor girl, by name Manya. The petitioner placed reliance on the



adoption deed dated 03 June, 2015 to demonstrate that the child was given to him on adoption. Though the eighth respondent and his wife admitted the execution of the registered adoption deed dated 03 June, 2015, they are challenging its validity on the ground of coercion and misrepresentation.

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9. The only question that arises for consideration is as to whether the child is in illegal custody.

10. The eighth respondent is, admittedly, the biological father. The eighth respondent produced the child before us. Even though there is an adoption deed, its legality and correctness is disputed by the eighth respondent and his wife. The minor is now under the care and custody of her biological parents. The custody of the biological parents cannot be termed as illegal warranting interference by this Court to hand over the child to the petitioner in his capacity as the adoptive father. The only course available to the petitioner is to approach the concerned civil Court for appropriate relief. The question raised by the petitioner cannot be decided in this Habeas Corpus Petition on the basis of affidavits and counter-affidavits. The matter requires evidence. We are of the considered view that the minor is not in illegal custody of her biological parents.

11. We make it clear that this order would not stand in the way of parties approaching the Civil Court for appropriate relief.

12. The Habeas Corpus Petition is disposed of with the above observation.

Sd/-

Assistant Registrar (T&P)

/True copy/

Sub Assistant Registrar

To

1. The Superintendent of Police, Madurai District.
2. The Inspector of Police, Kallikudi Police Station, Madurai District.
3. The Sub Inspector of Police, Kallikudi Police Station, Madurai District.
4. The Additional Public Prosecutor, Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.M.Gururaj, Advocate, SR No.29034

+1 CC to Mr.A.Anandaraj, Advocate, SR No.29115

Order made in

**H.C.P. (MD) No.579 of 2016**

Delivered on : 09.06.2016