



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **08.09.2016**

CORAM:

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

H.C.P. [MD] .No.659 of 2016

Vasila : Petitioner

Vs.

1.The Superintendent of Police,
Tirunelveli District, Tirunelveli.

2.The Inspector of Police,
Achanpudur Police Station,
Tirunelveli District.

3.Jannath

4.Syed Hussin Beevi

5.Syed Alima : 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 to produce the body or person of the detenu, namely, Minor Syed Anisha, D/o.Late.Abdul Kadar, aged about eight years, before this Court and hand over to the petitioner's custody.

For Petitioner : Mr.D.Venkatesh

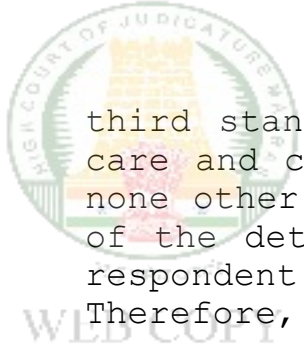
For Respondent Nos.1&2 : Mr.A.Ramar
Additional Public Prosecutor

For Respondent No.3 : Mr.T.Senthilkumar

O R D E R

[Order of the Court was made by **S.NAGAMUTHU, J.**]

The petitioner is the mother of one Syed Anisha, daughter of Late.Abdul Kadar, aged about eight years. Now, she is studying



third standard in St.Lourdes School, Dindigul. She is now in the care and custody of the third respondent. The third respondent is none other than the sister of the father of the detenu. The father of the detenu is no more. According to the petitioner, the third respondent is illegally detaining the child, namely, the detenu - Therefore, she has come up with this Habeas Corpus Petition.

2. Today, when the Habeas Corpus Petition came up for hearing, the petitioner made an appearance along with her counsel. The third respondent has also made appearance. They produced the child before this Court. When we enquired the child, she told us that she is very happily living with the third respondent and she wants to be with the care and custody of the third respondent and she is studying in a local school at Dindigul, whereas the petitioner is residing in Vallam, Sengottai Taluk, Tirunelveli District.

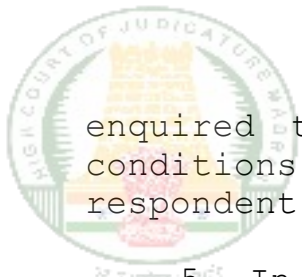
3. We allowed the parties to resolve the dispute by having a talk. Accordingly, the third respondent filed an affidavit, wherein in Paragraph Nos.1 to 3, she has stated as follows:-

"1. I am the 3rd respondent herein and well acquainted with the facts and circumstances of the case. I am hereby swearing this affidavit on my behalf.

2. It is most respectfully submitted that the above petitioner herein is the wife of My brother late Abdul Kadhar. Admittedly both were blessed with two children 1) Syed Anisha(Alleged to be Detenue) 2) Mohammed Meeran. Since I don't have the chance of giving birth to a child as per the advice of the doctor, Syed Anisha(alleged to be detenue) was given adoption to me by my brother late Abdul kadhar in the year 2009.

3. It is humbly submitted that during the period of stay at abroad my brother died. The above petitioner have filed the above H.C.P. From the year 2009 I am looking after the child with love and affection. Now, the child is studying 3rd standard at St. Lourdes school , Dindigul when the matter was taken up for hearing today, the above petitioner and myself arrived for a compromise. As the per the compromise I am ready to take the child (Syed Anisha) to the native place of petitioner, during school holidays (sharing equal number of holidays proportionately) and I am ready to stay at the petitioner's native place along with the child during those holidays. Moreover monthly visit and stay (4th weekend). I am ready to take the child to petitioner's native place. I am also ready to permit the petitioner to visit the child (Syed Anisha) at Dindigul where she wants to visit."

4. The petitioner has got no objection for the above terms mentioned in the affidavit filed by the third respondent. When we



enquired the petitioner, she tacitly agreed for the terms and conditions mentioned in the affidavit filed by the third respondent.

5. In view of the above and having regard to the welfare of the minor child, in our considered view, it would be in the interest of justice to allow her to continue to be in the care and custody of the third respondent, subject to the other conditions, for which the third respondent has agreed upon, as mentioned in her affidavit.

6. In view of the above compromise reached between the parties, the Habeas Corpus Petition is closed, directing the parties to abide by the terms and conditions mentioned in the affidavit, as extracted hereinabove.

Sd/
Assistant Registrar (T&P)

/True Copy/

Sub Assistant Registrar

To

1.The Superintendent of Police,
Tirunelveli District, Tirunelveli.

2.The Inspector of Police,
Achanpudur Police Station,
Tirunelveli District.

+1 cc to D.VENKATESH, Advocate SR.No.51597

+1 cc to T.SENTHILKUMAR, Advocate SR.NO.51333

ORDER MADE IN
H.C.P.[MD].No.659 of 2016
08.09.2016

SMA/CK/27/09/2016 :3P/5C