



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 20.07.2016

CORAM:

THE HONOURABLE MR. JUSTICE K.K. SASIDHARAN
and

THE HONOURABLE MR. JUSTICE B. GOKULDAS
H.C.P (MD) No. 674 of 2016

M. Saraswathy

: Petitioner

Vs.

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

2. The State rep. by
The Inspector of Police,
Sankarankoil Town Police Station,
Tirunelveli District.

3. M. Balasubramanian

4. Sundari

: Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus, directing the first and second respondents to produce the person or body of the petitioner's daughter E. Dharani, D/o. Esakkirajan, female, aged about 10 years originally residing along with her at Door No. 117, Near Meenashi Theatre, Railway Station Road, Rajapalayam, Virudhunagar District and now as illegal custody and without any legal right by the respondents 3 and 4 at Thiruvudaiyan Salai 2nd Street, Sankarankoil, Tirunelveli District before this Court and hand over custody to the petitioner forthwith.

For Petitioner : Mr. J. Sankara Pandian

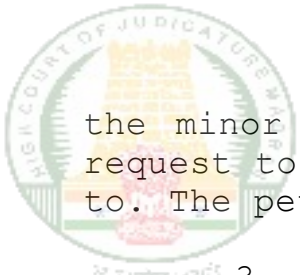
For Respondents 1 & 2 : Mr. C. Mayil Vahana Rajendran,
Additional Public Prosecutor

O R D E R

[Order of the Court was made by K.K. SASIDHARAN, J.]

This Habeas Corpus Petition is filed by the mother of a minor girl, to direct the first and second respondents to produce her daughter, by name E. Dharani and set her free.

2. The petitioner is an employee of Sales Tax Department at Sankarankoil. The minor, by name E. Dharani was born to the petitioner in her lawful wedlock with Thiru. Esakkirajan. The husband of the petitioner died subsequently. The third respondent, who is stated to be the brother of the petitioner, took custody of



the minor against her wishes. Even though the petitioner made a request to send the child to her custody, the same was not adhered to. The petitioner, therefore, filed this Habeas Corpus Petition.

3. The third respondent produced the child before us. The minor agreed to go with the petitioner, who is none other than her biological mother. The minor expressed her desire that she should be permitted to visit the third respondent and his children whenever she desires.

4. The third respondent submitted that the intention of the petitioner is to put the minor in a hostel and to live with her second husband. The petitioner made it very clear that the minor would stay with her and she would look after her without sending her to a hostel. The said submission is recorded.

5. The petitioner is permitted to take custody of the minor, by name E.Dharani. There shall be a direction to the petitioner to send the minor to the residence of the third respondent, in case a request is made for the said purpose. However, we make it clear that the custody of the minor shall always be with the petitioner, as she is the biological mother.

6. The Habeas Corpus Petition is closed with the above observation.

Sd/-
Assistant Registrar(AE)

/True copy/

Sub Assistant Registrar

To

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

2.The Inspector of Police,
Sankarankoil Town Police Station, Tirunelveli District.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC to Mr.PALANIVELAYUTHAM, Advocate, SR No.38049

Order made in
H.C.P(MD)No.674 of 2016
Dated: 20.07.2016