

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.07.2017

CORAM:

THE HON'BLE MR.JUSTICE A.SELVAM
AND
THE HON'BLE MR.JUSTICE P.KALAIYARASAN

H.C.P.No.1111 of 2017

V.Manimegalai

... Petitioner

vs.

1. The District Superintendent of Police,
Salem District.
2. The Inspector of Police,
Magudanchavadi Police Station,
Salem District.
- 3.Muthu

... Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of habeas corpus to direct the second respondent to produce the body of detenu by name Krithick, aged about 7 years, before this Court and restore the legal custody of the detenu.

For Petitioner : Mr.A.G.Narasimhan

For Respondents :Mr.V.M.R.Rajentren,A.P.P.
for R1 and R2
Mr.R.Marudhachalamurthy for R3

ORDER

(Order of the Court was made by A.SELVAM,J.)

This Habeas Corpus Petition has been filed under Article 226 of the Constitution of India, praying to direct the second respondent to trace out and produce the detenu, by name, Krithick, aged 7 years, son of the petitioner.

2. The petitioner is present and she has been identified by her counsel.

3. The second respondent, viz., The Inspector of Police, Magudanchavadi Police Station, has produced the detenu, along with the third respondent, viz., Muthu, who is none other than the paternal grandfather of the detenu.

4. The learned counsel appearing for the petitioner has vehemently contended to the effect that the petitioner has got remarried and as such, the third respondent and others have forcibly taken the detenu from the legal custody of the petitioner and consequently a police complaint has been given. Under the said circumstances, the detenu should be given to the petitioner for proper care.

5. The learned counsel appearing for the third respondent has also equally contended to the effect that the third respondent is none other than the paternal grandfather of the detenu and now the detenu is under the care and custody of the third respondent.

6. As adverted to earlier, the second respondent has produced both the detenu and third respondent. The detenu is aged about seven years. In fact this Court has enquired the detenu and he expressed his willingness to go with the third respondent/paternal grandfather.

7. It is a well known fact that the interest of the detenu/minor is a paramount consideration.

8. In the instant case, as stated earlier, the detenu has expressed his willingness to go with the third respondent/paternal grandfather. Under the said circumstances, the relief sought in the petition cannot be granted. However, it is open to the petitioner to seek custody of the detenu by way of instituting separate proceedings before proper forum.

9. In fine, this petition is dismissed. The petitioner is at liberty to file a separate petition before proper forum for getting custody.

Sd/-
Asst. Registrar (CO)

/true copy/

Sub Asst. Registrar

msk

To

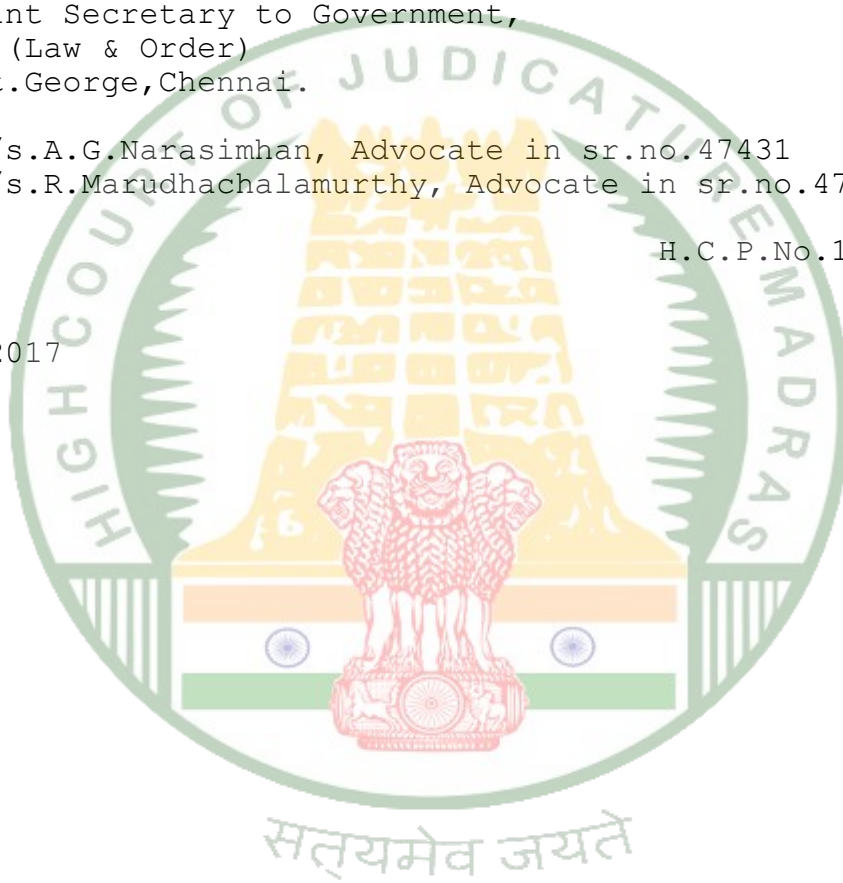
1. The District Superintendent of Police,
Salem District.
2. The Inspector of Police,
Magudanchavadi Police Station,
Salem District.
3. The Public Prosecutor,
High Court, Madras.
4. The Joint Secretary to Government,
Public (Law & Order)
Fort St.George, Chennai.

+1cc to M/s.A.G.Narasimhan, Advocate in sr.no.47431

+1cc to M/s.R.Marudhachalamurthy, Advocate in sr.no.47441

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NRI (CO)
NR 14/07/2017



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