

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 05.10.2017

Coram

THE HON'BLE MR.JUSTICE RAJIV SHAKDER
&
THE HON'BLE MR.JUSTICE N.SATHISH KUMAR

H.C.P.No.1158 of 2014
and
M.P.Nos.1 to 3 of 2014

Peter Sukumar Prakash

... Petitioner

Vs.

1. State of Tamil Nadu
Rep. By Commissioner of Police
Egmore.
2. Assistant Commissioner of Police
Anna Nagar (East)
Chennai.
3. Anna Shobana Premila
Flat No.H-1, Bougain Villa Apartments
K-Block, Anna Nagar (East)
Chennai - 600 102.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, directing the respondents to produce the minor child Megan Grace before this Court and permit the petitioner to take permanent custody of the minor child and take her back from India to the United States of America in terms of the judgment dated 26.06.2013 passed by Circuit Court of XVIII Judicial Circuit, Du Page County Illinois, USA.

For Petitioner : Mr.M.K.Kaabir, Senior Counsel
for Mr.Anand Sashidharan

For Respondents : Mr.V.M.R.Rajentran,
Additional Public Prosecutor
for R1 & R2
Ms.Shiek Meharunisha for R3

O R D E R

(Order of the Court was made by RAJIV SHAKDER, J)

1. Mr.Kabir, learned Senior Counsel on instructions of Mr.Anand Sashidharan, learned counsel appearing for the petitioner and Ms.Shiek Meharunisha, learned counsel appearing for respondent No.3, i.e., the contesting respondent, submit that their respective clients have executed a Joint Memorandum of Compromise, (in short "JMC"), dated 18.09.2017, whereby, they seek disposal of the pending petition in terms thereof.

2. We have perused the JMC. JMC bears the signatures of the petitioner and respondent No.3 as well as their respective counsels.

3. According to us, while there is no difficulty with regard to Clause 1(b) to (l), clause 1 (a) of the JMC may require some modification. Clause 1 (a) states as follows:

"a. The petitioner hereby agrees not to seek enforcement of his rights pertaining to the custody of the minor daughter Megan Grace Prakash through the above Habeas Corpus Petition or any other courts."

4. According to us, having regard to the nature of proceedings clause 1(a) of the JMC, as a matter of fact, denudes the Court of its power via an inter se agreement arrived at between parties. Since, the JMC has been filed in this Court, we have put to the learned counsel for the parties as to whether Clause 1(a) could be deleted and instead parties would agree to the disposal of the captioned petition in terms of the remaining clauses adverted to in the JMC.

5. Learned counsels submit that the needful could be done, as the substantive rights of the parties are indicated in Clause 1(b) to (l).

6. Accordingly, as prayed, the petition is disposed of in terms of Clause 1(b) to (l). The parties will abide by the terms of the JMC, as indicated above.

*Xerox Copy of Joint Memo of
Compromise is enclosed

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

vsm

To

1. The Commissioner of Police
Egmore.
2. The Assistant Commissioner of Police
Anna Nagar (East)
Chennai.
3. The Public Prosecutor,
Madras High Court,
Chennai.

+lcc to Mr.Anand Sashidharan, Advocate, S.R.No.71376

H.C.P.No.1158 of 2014

KGK(CO)
CA(14/11/2017)



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