

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 20.11.2017

Coram:

The Honourable Mr. Justice RAJIV SHAKDHER
and
The Honourable Mr. Justice N. SATHISH KUMAR

H.C.P.No.1936 of 2017

Mr. M. I. Sekar

...Petitioner

Versus

1. The State represented by
The Superintendent of Police,
Salem, Salem District.
2. The Inspector of Police,
Athur Police Station,
Salem District.
3. Mr. Shanmugam
S/o. Kandhasamy
4. Mrs. Poongodi
W/o. Shanmugam
5. Mr. Senthil
S/o. Shanmugam

...Respondents

Prayer :

This Habeas Corpus Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Habeas Corpus, directing the respondents to produce the body of the petitioner's minor daughter S.Prathiksha, aged 1 year 1 month, baby, detained illegally by the respondents 3 to 5 at Kugai, Salem District, Salem, before this Court and set her at liberty.

For Petitioner	:	Mr. S. Senthilmurugan
For Respondents 1 & 2	:	Mr. V. M. R. Rajentran, Additional Public Prosecutor
Respondents 3 to 5	:	Mr. Vinoth for Mr. C. Prabakaran

O R D E R

(Order of the Court was delivered by RAJIV SHAKDHER, J.,)

1. The petitioner is the father of the detenue/S.Prathiksha. The detenue/S.Prathiksha is a minor, aged, approximately, 1 year and 1 month.

2. We have interacted with the petitioner, respondent Nos.3 and 4, who are the maternal grandparents of the detenue/S.Prathiksha.

3. It appears that they are taking care of the detenue/S.Prathiksha, after the death of their daughter, who was married to the petitioner. The petitioner has informed us that prior to his marriage with the daughter of respondent Nos. 3 and 4, he had married on two earlier occasions. He also informs us that the marriage of the petitioner with the daughter of the respondent Nos.3 and 4 was performed only after he had obtained divorce from his earlier wife.

4. After having interacted with the petitioner, prima facie, it appears that he does not have the wherewithal of taking care of the detenue/S.Prathiksha, who is a minor child and that too, of a tender age.

5. We may also note that the respondent Nos.3 and 4 have stated before us that they will allow the petitioner to interact with the detenue/S.Prathiksha, as and when, he wishes to do so, provided prior intimation is given to them. This statement of respondent Nos.3 and 4 is taken on record.

6. Accordingly, we are not inclined to pass any further orders in the captioned petition. The petitioner, however, will have the right to take recourse to an appropriate remedy in accordance with law to secure the custody of the detenue/S.Prathiksha. Our observation in Paragraph No.4 above are of prima facie nature. We have principally declined relief on the ground that the detenue, in our view, is presently, not in illegal custody.

7. With the above direction, this Habeas Corpus Petition is closed.

Sd/-

Assistant Registrar (CO)

//True Copy//

Sub Assistant Registrar

mrr

To

1. The Superintendent of Police,
Salem, Salem District.
2. The Inspector of Police,
Athur Police Station,
Salem District.
3. The Public Prosecutor,
High Court,
Madras.

+1cc to Mr.N.ANAND Advocate, S.R.No. 82242

+1cc to Mr.G.ILAMURUGU Advocate, S.R.No. 82105

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MG(CO)
TR(19/12/2017)



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