

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.04.2017

CORAM

THE HON'BLE MR.JUSTICE S.NAGAMUTHU
and
THE HON'BLE DR.JUSTICE ANITA SUMANTH

H.C.P.No.23 of 2017

Indirakumar Pathmanathan ... Petitioner

versus

1. The State

Rep. by the Inspector of Police
R5, Virugambakkam Police Station
Chennai 600 092

2.Vijayalakshmi @ Rambha Venkateshwara Rao

... Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Habeas Corpus, directing the first respondent to produce the minor children, Laanya Indrakumar born on January 13th, 2011 currently aged 5 years and Sasha Indrakumar born on March 27th, 2015 currently aged 1 year, and to produce before this Hon'ble Court and hand over the children to the petitioner and set them at liberty.

For Petitioner : Mr.Geetharamaseshan
For R.1 : V.M.R.Rajentren,
Addl. Public Prosecutor

For R.2 : Mr.A.Raghunathan,
Senior Counsel for
Mr.J.Kumaran

WEB COPY
O R D E R

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

The petitioner is the husband of one Mrs.Vijayalaskhmi @ Rambha Venkateshwara Rao, the Second respondent herein. The marriage between them was celebrated in the year 2010. Out of the said wedlock, two children by name Laanya Indrakumar and

Sasha Indrakumar were born on 13.01.2011 and 27.03.2015 respectively. Now, the children are in the care and custody of the second respondent, as there was a matrimonial dispute between the petitioner and the second respondent.

2.It is alleged that the petitioner filed a case before the Superior Court of Justice at Ontario in Canada, wherein on 6th December, 2016, the Court has passed an order which includes a direction to the second respondent herein that the children should not be taken out of Canada. But, according to the petitioner, the second respondent has brought the children to India and she is illegally confining them. The petitioner has filed the present Habeas Corpus Petition, for the production of the children before the Court and to hand over them to the petitioner in pursuance of the order passed by the Foreign Court.

3.Earlier, when this petition came up for hearing, this Court was informed by the learned counsel for the petitioner and the second respondent that the entire issue between the parties could be settled by means of mediation. Therefore, the matter was referred to the Tamil Nadu Mediation and Conciliation Center of this Court on 30.01.2017. Later, a report was submitted by the Mediation Centre on 07.03.2017, reporting that the parties being unable to be present and to make a decision on their own volition and unable to settle their issue. Therefore, the matter was referred to this Court.

4.Before this Bench, the petitioner and the second respondent made appearance on 20.03.2017. After the matter was argued to some extent, the learned counsel on either side submitted that the matter could be again referred to the Mediation Centre as there was still possibility for amicable settlement. Accordingly, by order dated 20.03.2017, this Court appointed one Mr.A.J.Jawad, Senior Trained Mediator with a direction to the parties to appear before him for the purpose of mediation.

5.Today, a report has been received from the Mediation Centre by the Mediator wherein, he has reported that the matter was amicably settled between the parties and a Memorandum of compromise dated 05.04.2017 signed by both parties and their respective counsel is also enclosed.

6.We have gone through the memorandum of compromise signed by both parties as well as their respective counsel. The said memorandum of Compromise dated 05.04.2017 is extracted below:-

"The petitioner filed HCP 23/17 before the Honourble High Court seeking the production of his two children on the ground that there was an order of the Superior Court of Justice of Ontario FS-16-052316-00 dated 12.12.2016.

The 2nd respondent has also filed OP.4075/16 seeking restitution of conjugal rights and OP.4079/16 seeking to appoint herself as the guardian of the two children and have their custody.

The Habeas Corpus petition was referred for mediation by the Honourable High Court on 20.03.2017 and the parties had discussions on 20.03.2017, 21.03.2017 and on 25.03.2017.

Based on the discussions between themselves mediators and counsels, the parties agreed to resolve all issues on the following terms and conditions.

1. The petitioner and the 2nd respondent agree to put away their differences and resolve to live together in matrimony.
2. The petitioner and the 2nd respondent agree that the petitioner while being based in Canada will come frequently to Chennai and whenever he comes to India the 2nd respondent and the children will shift to his residence at 37, Ranganathan Avenue, Uthandi, Chennai 600 119 and live with him subject to her film shootings.
3. The petitioner and the 2nd respondent agree that when they are together in India or in any other country, the children will be in the care of both the parents. When the petitioner is not in India the minor children will be in the care of their mother, the second respondent herein. If the petitioner is in India and the second respondent is abroad the children will be in the care of the petitioner in India.
4. The first child Laanya is currently studying in Chennai Public School in Grade I and she will continue to do so.

5. The second child is aged only about two years and is with the mother.
6. The petitioner will pay for the expenses for the two children and take care of their educational expenses.
7. The petitioner will take the necessary legal steps to close the proceedings before the Superior Court of Justice of Ontario FS-16-052316-00 dated 12.12.2016 preferably within 30 days thereof.
8. The 2nd respondent will also take steps to withdraw the proceedings filed by her, OP.4075/16 OP.4079/16 before the second additional family court preferably within the next two hearing dates.
9. The 2nd respondent will intimate to the petitioner all information relating to the children including all issues relating to their education, health and overall development and the petitioner will be at liberty to contact his children at all times with prior intimation to the 2nd respondent so that she can keep the children ready.
10. The petitioner and the 2nd respondent agree that all properties currently belonging to them in India or abroad and standing in their individual names will be theirs absolutely. The petitioners further agree that any properties that they purchase in the future individually in India or abroad will belong to them individually and absolutely. The 2nd respondent's properties are no way liable for the petitioner's debts or other liabilities nor will the petitioner's properties be liable for debt or liabilities incurred by the second respondent. Both parties agree to execute any document in this regard to give full effect to this provision in India and Canada.
11. The petitioner and the 2nd respondent further agree that either of them will not lay any claim to the property of each other at any point of time.
12. The 2nd respondent hereby declares that there is no amount receivable either

from the petitioner or from his family members. Similarly petitioner also hereby declares that there is no amount receivable either from 2nd respondent or from her family members.

13.The petitioner and the 2nd respondent agree that in the future if they have any differences or discords they will discuss with each other to resolve the same. If they are unable to do so they will discuss with their counsels or if that is not possible with the mediator. Dated at Chennai on this 5th day of April 2017."

7.When we enquired them, they told us that the compromise is real and they fully agree for the terms and conditions of the compromise. They requested this Court to close the Habeas Corpus Petition recording the compromise.

8.The learned counsel for the petitioner and the learned Senior Counsel appearing for the second respondent also submitted that the compromise between the petitioner and the second respondent is real and the same may be recorded and the Habeas Corpus Petition may be closed.

9.In view of the above, the Habeas Corpus Petition is closed recording the above compromise reached between the parties dated 05.04.2017. The parties shall bind themselves by the terms and conditions of the compromise. Consequently, connected Miscellaneous Petition is closed.

10.At this juncture, the learned counsel for the petitioner and the learned Senior Counsel appearing for the second respondent submitted that the petitioner offers to pay a sum of Rs.1,00,000/- to the Mediator as remuneration. We accordingly, permit the petitioner and the second respondent together to pay a sum of Rs.1,00,000/- (Rupees one lakh only) to the Mediator and the Mediator to receive the same. We appreciate the good efforts made by the Mediator.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

jbm
To

1.The Inspector of Police,
R5, Virugambakkam Police Station,
Chennai 600 092.

2.The Public Prosecutor,
High Court, Madras-600 104.

+2cc to M/S.Geeta Ramaseshan, Advocate Sr.20507
+1cc to Mr.J.Kumaran, Advocate Sr.20739

H.C.P.No.23 of 2017

nrjk[col]
srg 20/04/2017



WEB COPY