

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.01.2017

CORAM

THE HON'BLE MR.JUSTICE M.JAICHANDREN
and
THE HON'BLE MR.JUSTICE T.MATHIVANAN

H.C.P.No.5 of 2017

P.Krishnan

.. Petitioner

Vs

1.The Sub Inspector of Police,
All Women Police Station,
Villupuram.

2.The Superintendent of Police,
Villupuram,
Villupuram District.

3.Abirami

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS, directing the first and the second respondents to make investigation upon the petitioner's complaint, dated 14.12.2016 and to produce the petitioner's son, K.Mukilan, aged about 7-1/2 years before this Court and to set him at liberty.

For Petitioner : Mr.C.Munusamy

For Respondents : Mr.V.M.R.Rajentran, APP for
RR1 and 2
Mr.E.Kotteeswaran for R-3

WEB COPY
ORDER

[Order of the Court was made by M.JAICHANDREN,J.]

Heard the learned counsel appearing on behalf of the petitioner, as well as the learned Additional Public Prosecutor appearing on behalf of the first and the second respondents and Mr.E.Kotteeswaran, learned counsel appearing on behalf of the third respondent.

2 This Habeas Corpus Petition has been filed, praying that this Court may be pleased to issue a Writ of Habeas Corpus, directing the respondents 1 and 2 to investigate the complaint made by the petitioner, dated 14.12.2016, and to produce the detenu, namely, K.Mukilan, aged about 7-1/2 years, before this Court and to set him at liberty.

3 The petitioner had stated that he is carrying on business on Flex Printing Work and is residing, at Villupuram. He had married the third respondent, on 20.6.2008, as per the Hindu rites and customs, in the presence of his relatives, well wishers and friends. Thereafter, they were living happily in the matrimonial home. The detenu was born, on 30.5.2009, out of the said wedlock. While so, certain disputes had arisen between the petitioner and the third respondent. The third respondent had left the matrimonial home, without informing the family members. At this stage, the third respondent had lodged a complaint before the first respondent police to take the custody of the child. After an enquiry had been conducted, it had been agreed that the third respondent can take the child every Sunday morning and that the child should be returned to the petitioner on the same day evening, by 6.00 p.m. However, the third respondent did not comply with the said condition, as agreed upon between the petitioner and the third respondent. In such circumstances, the petitioner has preferred the present Habeas Corpus Petition, before this Court.

4 The learned counsel appearing on behalf of the petitioner had stated that the third respondent is a mentally ill person. It had been further stated that the first respondent police had handed over the detenu to the third respondent, forcibly and illegally, without following the procedures established by law. In such circumstances, the present Habeas Corpus Petition had been filed by the petitioner, stating that the third respondent is keeping the detenu, in her illegal custody.

5 The learned counsel appearing on behalf of the third respondent had submitted that the detenu is with the third respondent, on his own free will. The detenu is living with the third respondent, who is his mother, happily. Therefore, the allegations made by the petitioner are false and frivolous in nature.

6 The minor child, namely, K.Mukilan, had been produced before this Court, by the first respondent police. On enquiry, the detenu had stated that he is living with his mother, namely, Abirami, the third respondent herein, happily. In such circumstances, we do not find any reason to hold that the detenu, K.Mukilan, aged about 7-1/2 years, is in the illegal custody of the third respondent, who is his mother. Hence, no

further orders are necessary, for the present, in the present Habeas Corpus Petition. The detenu, K.Mukilan, is permitted to go along with his mother, the third respondent herein, as per his wish. Accordingly, the Habeas Corpus Petition stands closed. However, it goes without saying that it may be open to the petitioner to seek his reliefs, if any, before the appropriate forum or the court, in the manner known to law, if so advised.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

vvk

To

- 1.The Sub Inspector of Police,
All Women Police Station,
Villupuram.
- 2.The Superintendent of Police,
Villupuram,
Villupuram District.
- 3.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.C.Munusamy, Advocate sr.2448

rj(co)
ss(6/2/2017)

H.C.P.No.5 of 2017

सत्यमेव जयते

WEB COPY