

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 14.03.2017

CORAM

THE HONOURABLE MR. JUSTICE S.NAGAMUTHU
and
THE HONOURABLE DR.JUSTICE ANITA SUMANTH

H.C.P No.412 of 2017

A.Abdulsathar

.. Petitioner

Vs

1. The Commissioner of Police
O/o. The Commissioner of Police,
Greater Chennai, Vepery,
Chennai.

2. The Inspector of Police,
B-5, MKB Nagar Police Station,
Chennai.

3. Ramjan Ali

... Respondents

Habeas Corpus Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus directing the respondents 1 and 2 to produce the body or person of petitioner's children minor son namely Imthiyas son of Abdulsathar (who is aged about 9 years) and Jesima daughter of Abdulsathar (who is aged about 7 years), who are under the illegal custody of the 3rd respondent before this Hon'ble Court and hand over the custody to me.

For Petitioner : M/s.M.Senthilkumar

For Respondents : Mr.V.M.R. Rajendran

Addl. Public Prosecutor (For R1 & R2)

ORDER

(Order of the Court was made by S. NAGAMUTHU,J.,)

The petitioner is the father of two young children, by name, Imthiyas, aged 9 years and Jesima, aged 7 years. The petitioner's wife, by name, Rasiyaparveen, committed suicide on 20.12.2016. In connection with the same, a case has been registered against the petitioner in Crime No.1814 of 2016 under Sections 294(b), 324 and 306 of IPC. Thereafter, the petitioner was arrested, remanded to judicial custody and after 72 days of

incarceration, he has come out on bail. In the meanwhile, the children, namely, the detenus were taken into safe custody by the third respondent, who is none else than the brother of the deceased and brother-in-law of the petitioner. The petitioner now alleges that the third respondent is illegally keeping the children.

2.We have heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondent police.

3.In our considered view, it is not so. Since the petitioner alleged to have being the cause for the death of his wife, we are of the view that in the interest of children, the children cannot be entrusted to the petitioner at this stage. But, if the petitioner feels that he has got right to secure the children, he has to work out his remedy in the Civil Court and such a relief cannot be granted in this Habeas Corpus jurisdiction. Hence, this Habeas Corpus Petition is dismissed.

Sd/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

To

1.The Commissioner of Police
O/o. The Commissioner of Police,
Greater Chennai, Vepery,
Chennai.

2.The Inspector of Police,
B-5, MKB Nagar Police Station,
Chennai.

3.The Public Prosecutor,
High Court, Chennai.

H.C.P.No.412 of 2017

SCD(CO)
VR(03/04/2017)