



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.11.2017

CORAM:

WEB COPY

**THE HONOURABLE MR.JUSTICE R.SUBBIAH
AND
THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA**

H.C.P. (MD) No.1534 of 2017

Niranjammal : Petitioner
vs.

1. The Superintendent of Police,
Ramanathapuram District
Ramanathapuram.
2. The Inspector of Police,
Paramakudi Taluk Police Station,
Paramakudi, Ramanathapuram District
3. Rajeswari : Respondents

PRAYER: Petition is filed under Article 226 of the Constitution of India praying for the issue of a Writ of Habeas Corpus, to direct the respondents 1 and 2 to secure the detenu namely minor Child Mirunya, D/o.Ramprabhu, aged 6 years, before this Court and hand over to the custody of the petitioner.

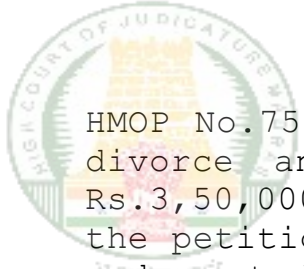
For Petitioner : Ms.Chamundi Bose
For Respondents : Mr.C.Mayilvahana Rajendran
for R1 & R2 Additional Public Prosecutor
No appearance for R3

ORDER

[Order of the Court was made by **R.SUBBIAH, J**]

The petitioner is the grandmother of the detenu, viz., minor child Mirunya, aged 6 years.

2. In the affidavit filed in support of the petition, it is averred that the petitioner's son, namely, Ramprabhu and the third respondent got married on 06.03.2011 and out of wedlock, they had a girl child, the detenu herein. Since there was no cordial relationship between her son and the third respondent, they filed



HMOP No.755/2014 on the file of the Family Court, Madurai and got divorce and the third respondent agreed for a settlement of Rs.3,50,000/- and also agreed for the custody of the child with the petitioner's son. Since then, the minor child was in the care and custody of the petitioner herein, as her son was abroad. While so, the third respondent filed G.W.O.P.No.5 of 2016 for the custody of the child on the file of the Principal District Judge, Ramanathapuram and the same was ordered as prayed for. Against the said order, the petitioner has preferred an appeal in CMA (SR) No.39222 of 2017 and the same is pending before this Court.

3. While so, the third respondent, without the knowledge of the petitioner and her son, abducted the minor child on 10.10.2017. Therefore, the petitioner preferred a complaint before the respondent police. Since the whereabouts of the child is not known and no effective steps were taken, the petitioner is before this Court with this petition.

4. Since G.W.O.P. was ordered as prayed for, on the strength of the same, the child was taken by the mother and we are of the view that it is a dispute with regard to the custody of the child, and hence this Habeas Corpus Petition is not maintainable. Accordingly, this Habeas Corpus Petition is dismissed with liberty to the petitioner to work out her remedy in the appeal proceedings pending before this Court in CMA (MD) No.39222/2017.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar

To

1. The Superintendent of Police,
Ramanathapuram District
Ramanathapuram.
2. The Inspector of Police,
Paramakudi Police Station,
Paramakudi, Ramanathapuram District
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Ms.Chamundi Bose, Advocate Sr.No.87394

RR

VB/KK/SAR1/28/11/2017/2P/5C