



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.12.2017

CORAM:

WEB COPY

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

H.C.P. (MD) No.1627 of 2017

Viswapriya : Petitioner

Vs.

State rep. by

1. The Superintendent of Police,
Dindigul District, Dindigul.2. The Inspector of Police
All Women Police Station
Dindigul, Dindigul District

3. Sivakumar

4. Puspaleela

5. Shanmugapriya

6. Eswaran : 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 2nd respondent to produce the person or body of the petitioner's children namely Tharaniko aged about 3½ years son of Sivakumar and Kavinko aged about 6 years son of Sivakumar and hand over their custody to the petitioner.

For Petitioner : Mr. R. Manoharan

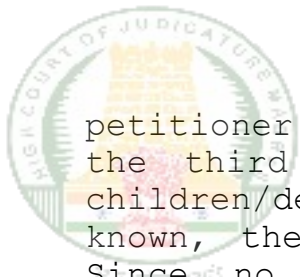
For Respondents : Mr. C. Ramesh

Additional Public Prosecutor for RR1 and 2
Mr. S. Sukumar for R3 to R6

ORDER

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

The petitioner is the mother of the detenu, viz., Tharaniko aged 3½ years and Kavinko, aged 6 years. It is stated in the affidavit that the marriage between the petitioner and her husband/3rd respondent herein took place in the year 2010. Due to wedlock, she gave birth to one female and one male child, the detenus herein. While so, the 3rd and 5th respondents harassed the petitioner by demanding dowry. Under such circumstances, the



petitioner went to her parental home at Dindigul and on 16.10.2017, the third respondent came to her home and had taken away the children/detenu. Since the whereabouts of the children were not known, the petitioner gave a complaint to the respondent police. Since, no effective steps were taken, the petitioner is before this Court with this petition.

2. The third respondent has filed a counter, wherein, it is stated that since the 3rd respondent being the father of the children, there is no illegal detention of the detenus. It is further stated that the 3rd respondent left the matrimonial home and though steps have been taken for reunion, the same could not succeed. Therefore, the third respondent filed a petition before the Sub Court, Theni, for restitution of conjugal rights and the same is pending. It is further stated that the respondents 4 to 6 are no way connected with the case in any manner and the matrimonial dispute is between the petitioner and the third respondent. Now, the children are studying in Mary Matha Higher Secondary School at Theni and they are under the control of the third respondent/father. However, with false allegations, this present petition has been filed, as if the third respondent abducted the children/detenu and hence, prayed for the dismissal of the petition.

3. Reading of the entire affidavit and counter affidavit would go to show that it is a matrimonial dispute between the petitioner and the third respondent, for which, this Habeas Corpus Petition is not a remedy. Therefore, this petition is dismissed. However, the petitioner is at liberty to work out her remedy in the manner known to law for the custody of the children.

Sd/-
Assistant Registrar(CSI)

/True Copy/

Sub-Assistant Registrar

To

- 1.The Superintendent of Police,
Dindigul District, Dindigul.
- 2.The Inspector of Police
All Women Police Station
Dindigul, Dindigul District
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+One cc to Mr.S.Sukumar, Advocate, SR.No.91269

RR

RL/5C/2P/SKN/RSK/SAR4/28/12/2017