



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.11.2017

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CORAM:

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

H.C.P. (MD) No.1646 of 2017

M.Benasir : Petitioner

Vs.

1. The Superintendent of Police,
Pudukkottai District,
Pudukkottai.
2. The Inspector of Police,
All Women Police Station,
Keeranur,
Pudukkottai District.
3. The Ministry of External Affairs,
E-Block, Central Secretariat,
New Delhi-110001.
4. Consul Community Welfare,
Community Welfare Wing,
Consulate General of India,
Post Box No.952, Jeddah -21471,
Saudi Arabia.
- 5.Mohammed Kasim Hakim,
- 6.Hameetha
- 7.Roja
- 8.Jaheera
- 9.Jameema Begum

: 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 to 4 to produce the person or body of detenu namely, Naveed Salman, S/o.Mohammed Kasim Hakim, aged about 5 years, the petitioner's son before this Court and handover his custody to the petitioner.



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For Petitioner : Mr.M.Suresh
For R1 and R2 : Mr.C.Ramesh
Additional Public Prosecutor
For R3 & R4 : Mr.R.Murugappan
Central Govt. Standing Counsel
For R5 : No appearance
For R6 to R9 : Mr.B.Jameel Arasu

ORDER

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

The present Habeas Corpus Petition has been filed by the mother of the detenu, seeking a Writ of Habeas Corpus, directing the respondents 1 to 4 to produce the person or body of detenu namely, Naveed Salman, S/o.Mohammed Kasim Hakim, aged about 5 years, the petitioner's son before this Court and hand over his custody to the petitioner.

2.In the affidavit, it has been averred that the petitioner is the mother of the detenu namely, Naveed Salman, S/o.Mohammed Kasim Hakim, aged about 5 years. The marriage between the petitioner and the fifth respondent was solemnized on 03.08.2008 and out of wedlock, the petitioner gave birth to two sons and the fifth respondent/husband took the petitioner with her two sons to Saudi Arabia and therein the fifth respondent picked up quarrel and as such, there was strained relationship between them. Under such circumstances, they returned to India on 27.07.2017. When the fifth respondent went to Saudi Arabia, the respondents 6 to 9 insisted him to take the petitioner to Saudi Arabia. However, the petitioner refused to go with him. Thereafter, since she had to attend her mother's funeral ceremony, the petitioner handed over her younger son to the respondents 7 to 9 and subsequently, when the petitioner questioned the whereabouts of her son, the respondents 7 to 9 and her husband attacked her and took her son forcibly. Immediately, the petitioner searched for her son in several places, but she could not trace him. Hence, the petitioner made a complaint to the first respondent on 25.09.2017. Since no effective steps have been taken by the respondent police, the petitioner has filed the present Habeas Carpus Petition.

3.A reading of the FIR would show that the dispute between the petitioner and her husband is purely a family dispute, for which, the Habeas Corpus Petition is not an appropriate remedy. It is well settled principle that the Habeas Corpus Petition can be maintained only when there is an illegal custody. However, the



averments made in the affidavit do not make out any case for illegal custody. Therefore, we are not inclined to entertain the present petition. Hence, the Habeas Corpus Petition is dismissed.

Sd/-

Assistant Registrar(CO)

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/True Copy/

Sub Assistant Registrar

To

1. The Superintendent of Police,
Pudukkottai District,
Pudukkottai.
2. The Inspector of Police,
All Women Police Station,
Keeranur,
Pudukkottai District.
3. The Ministry of External Affairs,
E-Block, Central Secretariat,
New Delhi-110001.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.B.Jameel Arasu, Advocate Sr.No.90318

+1cc to Mr.M.Suresh, Advocate Sr.No.90119

+1cc to Mr.R.Murugappan, Advocate Sr.No.90042

NS

VB/SV/MMS/SAR4/20/12/2017/3P/8C

Order made in
H.C.P. (MD) No.1646 of 2017
29.11.2017