



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.11.2017

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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.1653 of 2017

Kanaga

: Petitioner

Vs.

1.The Superintendent of Police,
District Police Office,
Dindigul.

2.The Inspector of Police,
Dindigul West Police Station,
Dindigul District.

3.The Inspector of Police,
All Women Police Station,
Dindigul.

4.Shanmuga Sundaram

: 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 3 to produce the person or body of the minor son of the petitioner namely Rohith, S/o.Shanmuga Sundaram, aged about 8 years, from the illegal custody of the 4th respondent before this Court and hand over to the petitioner's custody.

For Petitioner : Mr.A.Arul Jenifer

For R1 to R3 : Mr.C.Ramesh
Additional Public Prosecutor

For R4 : Mr.V.P.Rajan

**ORDER**

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

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The present Habeas Corpus Petition has been filed by the mother of the detenu, seeking a Writ of Habeas Corpus, directing the respondents 1 and 3 to produce the person or body of the minor son namely Rohith, S/o.Shanmuga Sundaram, aged about 8 years, from the illegal custody of the 4th respondent, before this Court and handover him to the petitioner's custody.

2.In the affidavit, it has been averred that the marriage between the petitioner and the fourth respondent was solemnized on 24.10.2007 and out of wedlock, the petitioner gave birth to one male child, who is the detenu herein, aged about 8 years. It is further averred that during the month of September 2017, the fourth respondent harassed the petitioner for want of more money and also had driven her out from the matrimonial home. At present, the petitioner is residing at her brother's house along with her son. It is alleged that on 17.10.2017, the fourth respondent along with others came to the petitioner's brother house and kidnapped her son. In this regard, the petitioner lodged a complaint before the respondent police. However, no action was taken. Further, on 27.10.2017, the petitioner lodged a complaint before the third respondent stating that the fourth respondent harassed the petitioner by demanding dowry and also wanted to secure her child. On receipt of the said complaint, the third respondent issued a receipt in No.513 of 2017. Since no effective steps have been taken by the third respondent to trace out the detenu, the petitioner has come up with the present Habeas Corpus Petition.

3.Today, when the Habeas Corpus Petition was taken up for consideration, the learned Additional Public Prosecutor submitted that on enquiry it was found that the minor child/detenu is not in the illegal custody of the fourth respondent/father.



4. On a reading of the entire affidavit, we are of the opinion that it is a matrimonial dispute between the petitioner and the fourth respondent and the issue involved in the Habeas Corpus Petition is only with regard to the custody of the minor child, for which, the Habeas Corpus Petition is not an appropriate remedy. Therefore, we are not inclined to entertain this Petition. Accordingly, the Habeas Corpus Petition is dismissed. However, the petitioner is at liberty to work out her remedy before the appropriate forum.

Sd/-
Assistant Registrar (AE)

/True Copy/

Sub Assistant Registrar

To

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

+1cc to M/S.V.P.RAJAN, Advocate SR.No.90510.

Order made in
H.C.P. (MD) No.1653 of 2017
28.11.2017

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SDS/SV:MMS/SAR 4/27.12.2017/3P/6C