



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.12.2017

CORAM:

WEB COPY

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

H.C.P.[MD].No.1753 of 2017

Barkath Aayini : Petitioner

Vs.

1.The Superintendent of Police,
Office of the Superintendent of Police,
Pudukkottati District.

2.The Inspector of Police,
Keeramangalam Police Station,
Pudukkottai District.

3.Jahir Hussain : Respondents

PRAYER: Petition is 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 person or body of the petitioner's minor daughter, namely, Thawfeeka, aged about six years, before this Court and hand over custody to the petitioner.

For Petitioner : Mr.M.M.Iqbal

For Respondents 1&2 : Mr.C.Ramesh
Additional Public Prosecutor

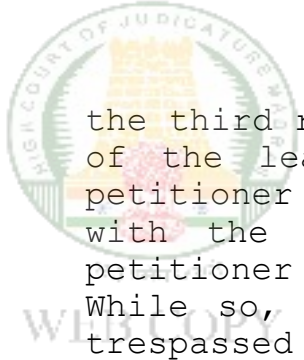
For Respondent No.3 : Mr.K.Baalasundharam

O R D E R

[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 to produce the person or body of the detenu, namely, Thawfeeka, aged about six years, before this Court and hand over her custody to the petitioner.

2. According to the petitioner, the detenu herein was born to her through the third respondent herein, who is her first husband. The child was in her custody since her birth. The marriage between the petitioner and the third respondent was dissolved. Subsequently,



the third respondent herein filed G.W.O.P.No.17 of 2017, on the file of the learned Principal District Judge, Pudukkottai. Since the petitioner fell in ill, she could not meet her advocate and proceed with the case and thus, the matter was decided ex-parte. The petitioner filed an application to set aside the ex-parte order. While so, the third respondent, along with his henchmen, forcibly trespassed into the house of the petitioner and kidnapped the detenu herein. In this regard, the petitioner made a complaint before the second respondent. On receipt of the said complaint, the second respondent police registered a case in Crime No.253 of 2017 under Section 363 of the Indian Penal Code. Since there were no effective steps taken by the second respondent police 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 second respondent police produced the detenu, along with the third respondent herein. The petitioner is also present in Court. When we enquired the detenu at length, she has stated that she is willing to go along with the petitioner.

4. In view of the above, recording the submission made by the minor detenu, the Habeas Corpus Petition is closed and the custody of the minor detenu is handed over to the petitioner. The third respondent is at liberty to work out his remedy before the appropriate forum.

Sd/-

Assistant Registrar (AS)

/True Copy/

Sub-Assistant Registrar

To

1.The Superintendent of Police,
Office of the Superintendent of Police,
Pudukkottati District.

2.The Inspector of Police,
Keeramangalam Police Station,
Pudukkottai District.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+One cc to Mr.M.M.Iqbal, Advocate, SR.No.93429

NB

RL/5C/2p/MR/SAR1/9/1/2018

ORDER MADE IN
H.C.P. [MD].No.1753 of 2017
18/12/2017