



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 12.10.2017

CORAM:

THE HONOURABLE MR.JUSTICE **R.SUBBIAH**

and

WEB COPY THE HONOURABLE MR.JUSTICE **A.D.JAGADISH CHANDIRA**

H.C.P(MD)No.990 of 2017

K.Nandhini

.. Petitioner

Vs.

1. The Commissioner of Police,
Trichirappalli City @ Trichirappalli

2. The Inspector of Police,
Government Hospital Police Station,
Tiruchirappalli City.

3. D.Karthick

4. Nirmala

5. D.Senthilkumar

.. Respondents

Habeas Corpus Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus to direct the respondents to produce the body of petitioner's daughter/detenu namely Minor D.K.Sai Rithika, D/o.Nandhini (4 years 6 months old) before this Court and thereby hand over the custody of the detenu to the petitioner.

For Petitioner : Mr.N.Sathish Babu

For Respondents : Mr.A.Ramar for R1 and R2

Addl. Public Prosecutor

Mr.S.Subbiah senior counsel

for Mr.K.Sivabalan for R3 to R5

ORDER

(Order of the Court was made by **R.SUBBIAH, J.**)

The petitioner is the mother of the detenu namely, D.K.Sai Rithika, aged about 4 years and 6 months. The respondents 3 to 5 are the husband, mother-in-law and brother-in-law respectively. The petitioner is working as a Pharmacist in Ordinance Factory, Tiruchirappalli. The 3rd respondent is working as a Deputy Manager, ENEL Trichy. The petitioner got married to the third respondent on 05.12.2011 and after marriage, they started their



matrimonial life altogether along with the respondents 3 to 5, as a joint family.

2. It is the further contention of the petitioner that the respondents 3 to 5 acted in a different manner and as per the instigation of the respondents 4 and 5, the 3rd respondent/husband took custody of her bank passbook, ATM Card and all educational certificates and she has been prevented to use even her salary. In these circumstances, she became pregnant. During her pregnancy, the respondents harassed the petitioner and she has been prevented to see her parents. Subsequently, she gave birth to a female child, namely, D.K.Sai Rithika, the detenu herein. The petitioner again got pregnant and when the respondents 3 to 5 came to know about her pregnancy, they forced to abort the same. But the petitioner refused to do so. While so, the petitioner's parents came to the petitioner's matrimonial home on 11.09.2016 and took the petitioner along with them. However, the respondents refused to hand over the detenu to the petitioner herein. The contention of the petitioner's is that her daughter D.K.Sai Rithika, aged 4 years is in the custody of the respondents 3 to 5. The petitioner being the mother and natural guardian, approached the respondents 3 to 5 to hand over the child. However, the same was refused and hence, the petitioner gave a complaint to the respondent police. Finding that no effective steps were taken, the petitioner is before this Court with this petition.

3. When the matter was taken up before this Court on 10.08.2017, the parties were present along with the child. This Court allowed them to have one to one meeting with each other in the Chambers. Thereafter the child was also enquired. After hearing the parties, this Court passed the order directing the respondent No.3 to take the detenu and meet the petitioner in a common place from 10.00 a.m. to 12.00 noon on every Saturday starting from 19.08.2017 and the said arrangement shall go on for a period of six weeks.

4. Now, when the matter came up for hearing, the learned counsel for the petitioner sought for extension of the same arrangement.

5. The learned senior counsel appearing for the respondents 3 to 5 vehemently opposed the same by filing a detailed counter affidavit.

6. Irrespective of the submissions made on either side, since the present dispute is only a dispute with regard to the custody of the child and when the child is only with the father, the same cannot be said to be an illegal custody and hence, the petitioner is to work out her remedy only by filing G.W.O.P. before the appropriate forum to get back the child. Therefore, we are not inclined to extend the interim order passed by this Court



on 10.08.2017. Accordingly, this Habeas Corpus Petition is closed by giving liberty to the petitioner to approach the appropriate forum to work out her remedy.

Sd/-

Assistant Registrar(Records)

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/True Copy/

Sub Assistant Registrar

To

1. The Commissioner of Police,
Trichirappalli City @ Trichirappalli
2. The Inspector of Police,
Government Hospital Police Station,
Tiruchirappalli City.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1cc to Mr.N.Sathish Babu, Advocate Sr.No.82525

+1cc to Mr. K.Sivabalan, Advocate Sr.No.82752

RR

VB/MR/SAR1/02/11/2017/3P/6C

**ORDER MADE IN
H.C.P(MD)No.990 of 2017
12.10.2017**