



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.01.2017

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

AND

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

H.C.P.[MD].No.1691 of 2016

Sahaya Jenifer

.. Petitioner

Vs.

State rep. by

1.The Superintendent of Police,
Virudhunagar District.

2.The Inspector of Police,
All Women Police Station,
Aruppukkottai,
Virudhunagar District.

3.Charles

4.Mary

5.Arputham

.. Respondents

PRAYER: Habeas Corpus Petition has been filed under Article 226 of the Constitution of India, praying to direct the first and second respondents to produce the body or person of the detenu in the present case / petitioner's daughter by name Jesika (Female, aged 4 years) D/o.Charless before this Court and consequently, set her at liberty.

For Petitioner : Mr.T.Dhakshina Moorthi

For respondents 1 & 2 : Mr.K.S.Duraipandian,
Addl. Public Prosecutor

For respondents 3 to 5 : Mr.R.Vijayakumar

ORDER

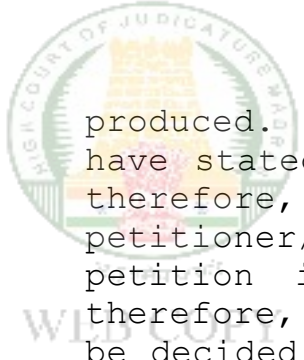
[Order of the Court was made by **R.SUBBIAH, J.**]

The mother of the detenu by name Jesika, aged about 4 years, has come with this Habeas Corpus Petition alleging that the respondents 3 to 5, who are her husband, mother-in-law and father-in-law respectively, illegally detained the detenu.

2. When the matter came up for hearing on 10.01.2017, this Court has passed the following order;

<https://hcservices.ecourts.gov.in/hcservices/>

The petitioner and the respondents 2 to 4 were present along with their respective counsel. The detenu / child was also



produced. During the course of enquiry, the respondents 3 to 5 have stated that the child is studying in a school at Chennai and therefore, the child cannot be handed over to the petitioner/mother. They have further stated that already divorce petition is pending before the District Court, Cuddalore and therefore, the issue with regard to the custody of the child can be decided before the trial Court. However, on persuasive request of the petitioner, the respondents 2 to 4 agreed to hand over the child for seven days, ie., from today to till 16.01.2017 to the custody of the petitioner / mother and thus, handed over the custody of the child to the petitioner. The petitioner is directed to appear before this Court along with the child on 17.01.2017. The respondents 3 to 5 are also directed to appear before this Court on 17.01.2017."

3.Today, when the matter was taken up for hearing, both the parties were appeared along with their respective counsel. The petitioner has also produced the detenu before this Court. When this Court pointed out that the issue with regard to the custody of the child cannot be decided by this Court in this Habeas Corpus Petition, the petitioner fairly submitted that she would file GWOP before the competent Court. The said statement is recorded.

4.In view of the above, nothing survives for adjudication in this petition. Hence, this Habeas Corpus Petition is closed with liberty to the petitioner to approach the appropriate forum for the custody of the child.

Sd/-

Assistant Registrar (CO)

/True copy/

Sub Assistant Registrar

To

1.The Superintendent of Police,
Virudhunagar District.

2.The Inspector of Police,
All Women Police Station,
Aruppukkottai,
Virudhunagar District.

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

+1 CC to M/s.T.DHAKHSNA MOORTHY, Advocate, SR No. 2931

+1 CC to M/s.R.VIJAYAKUMAR, Advocate, SR No. 2963

GCG

PSM/SV-MMS/08.02.2017/2P/6C