

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.06.2018

CORAM:

THE HON'BLE MR.JUSTICE M.VENUGOPAL
AND
THE HON'BLE MRS.JUSTICE M.NIRMAL KUMAR

H.C.P.No.1085 of 2018

P.Lalitha Petitioner

vs.

1.The Superintendent of Police,
O/o.The Superintendent of Police,
Namakkal District.

2.The Inspector of Police,
Namakkal Police Station,
Namakkal.

3.A.Shanmugam ... Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of habeas corpus to direct the Second Respondent to produce the Petitioner's son Vibulan, aged about 5 years (minor), now illegally kept by the 3rd Respondent herein before this Court and hand over to the Petitioner.

For Petitioner : Mr.I.Abrar Md Abdullah

For Respondents : Mr.R.Pratap Kumar
Additional Public Prosecutor
for R1 and R2

ORDER

(Order of the Court was made by M.VENUGOPAL,J.)

Heard the Learned Counsel for the Petitioner and the Learned Additional Public Prosecutor for the First and Second Respondent.

2.The Petitioner/Wife has projected the instant Writ of Habeas Corpus Petition for passing of an order by this Court in directing the Second Respondent/Inspector of Police, Namakkal Police Station, Namakkal, to produce her minor son Vibulan, aged about five years, now illegally kept by the Third

Respondent/Husband.

3.It comes to be known that the Petitioner/Wife had married the Third Respondent/Husband on 23.02.2012. Out of the wedlock between the Petitioner and the Third Respondent, a male child, viz., Vibulan, was born on 22.01.2013. It appears that the Petitioner was taking care of her minor son Vibulan and he was in her custody and further, he was studying in Green Valley Junior School, situated at Mohanur Road, Namakkal Town.

4.Admittedly the Petitioner had instituted Divorce Proceedings against the Third Respondent/Husband in H.M.O.P.No.77 of 2018, on the file of the Learned Sub Judge, Namakkal and the same is pending as on date.

5.The grievance of the Petitioner is that her Husband/Third Respondent is a chronic drunkard and he is not in the habit of attending the requirements of the minor son Vibulan. Hence, she is worried about his life in the hands of the Third Respondent.

6.The Petitioner, in her Affidavit in the present Habeas Corpus Petition, has come out with a plea that on 10.3.2018, her minor Son Vibulan had not returned from the School and that upon an enquiry, she was informed that the Third Respondent/Husband took her son. Till date the whereabouts of her son is unknown and he is missing for the last three months.

7.At this stage, the Learned Additional Public Prosecutor for the First and Second Respondent informs this Court that the minor son-Vibulan is under the care and custody of the Third Respondent/Husband. As a matter of fact, the petitioner and the Third Respondent are having matrimonial dispute and that the Divorce Proceedings initiated by the Petitioner/Wife is pending in H.M.O.P.No.77 of 2018, on the file of the Trial Court.

8.Considering the fact that the Petitioner/Wife has instituted Divorce Proceedings in H.M.O.P.No.77 of 2018, on the file of the Learned Sub Judge, Namakkal and the fact that there appears to be some family dispute between the Petitioner and the Third Respondent and also in view of the submission made by the Learned Additional Public Prosecutor for the First and Second Respondent that the minor Son-Vibulan, aged about five years, is now under the care and custody of the Third Respondent/Husband, this Court, at this juncture, simpliciter closes the present Habeas Corpus Petition and directs the Petitioner/Wife to work out her remedy in regard to the custody of her minor Son-Vibulan, aged about five years and any other relief, like visitation rights etc., before the competent Forum, of course,

in the manner known to Law and in accordance with Law.

With the above said observation/direction, the Habeas Corpus Petition stands closed.

Sd/-
Assistant Registrar(CS VII)

//True copy//

Sub Assistant Registrar

msh

To

1.The Sub Judge,
Namakkal.

2.The Superintendent of Police,
O/o.The Superintendent of Police,
Namakkal District.

3.The Inspector of Police,
Namakkal Police Station,
Namakkal.

3.The Public Prosecutor,
High Court, Madras.

+lcc to Mr.I.Abrar Md Abdullah, Advocate SR.No.35737

H.C.P.No.1085 of 2018

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