

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 11.06.2018

CORAM

THE HON'BLE Mr. JUSTICE M.VENUGOPAL
and
THE HON'BLE Mr. JUSTICE M.NIRMAL KUMAR

H.C.P.No.1100 of 2018

B.Sunil Sharma .. Petitioner

Vs

1.State of Tamil Nadu
Represented by its,
Inspector of Police,
(Law and Order),
H8 Kaladipet Police Station,
Chennai - 600 019.

2.Ganesh ... Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS, directing the 1st Respondent to produce the detainee-Master Kaushal Kumar, male, aged about 3 years, minor son of B.Sunil Sharma, in person or in body, before this Court and handover to the Petitioner.

For Petitioner : Mr.J.Janarthanan

For 1st Respondent : Mr.R.Prathap Kumar

Additional Public Prosecutor

सत्यमेव जयते

O R D E R

[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 1st Respondent. To avoid an avoidable delay, notice to the 2nd Respondent is dispensed with.

2.The Petitioner has filed the present Writ of Habeas Corpus Petition praying for passing of an order by this Court in directing the 1st Respondent to produce the Detenu - Master Kaushal Kumar (his son), aged about 3 years in person or in body

before this Court and handover to him.

3. Admittedly, the Petitioner/Father is blessed with son - Master Kaushal Sharma, male aged about 3 years, only after 5 years of his married life with his wife. According to him, his wife has suicidal tendency and that she had threatened him several times to do away with his son and then take away her life. One such incident took place within a short span of seven months from the date of birth of his minor son.

4. It comes to be known that the Petitioner's minor son Kaushal Kumar, aged about 3 years, is in the custody of his mother Mrs. Nethra in Karnataka. In view of the divergent of opinion between the Petitioner/Father and his wife Nethra, this Court is of the considered view that when the Petitioner's minor son is under the care and custody of his mother Nethra in Karnataka, then, the present Habeas Corpus Petition seeking to produce the Detenu Master Kaushal Kumar is per se not maintainable.

5. Viewed in that perspective, this Court dismisses the present Habeas Corpus Petition, granting liberty to the Petitioner/Father to workout his remedy, in respect of son Kaushal Kumar, aged about 3 years, before the competent forum seeking necessary relief either for custody or for his visitation rights, as the case may be, if he so desires/advised, in the manner known to Law and in accordance with Law.

6. With the above observation, the Habeas Corpus Petition is dismissed.

Sd/-

Assistant Registrar (CS VI)

//True Copy//

Sub Assistant Registrar

Sgl

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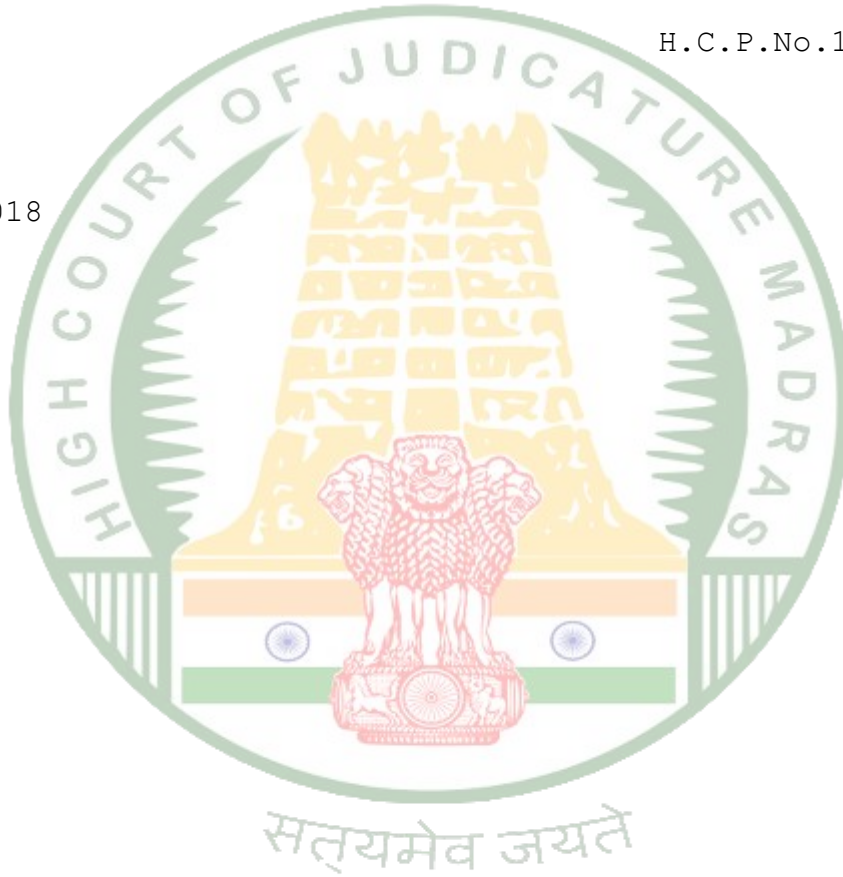
To

1.The Inspector of Police,
(Law and Order),
H8 Kaladipet Police Station,
Chennai - 600 019.

2.The Public Prosecutor,
High Court, Madras.

H.C.P.No.1100 of 2018

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