

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.09.2018

CORAM:

THE HONOURABLE MR.JUSTICE C.T.SELVAM
and
THE HONOURABLE MR.JUSTICE P.RAJAMANICKAM

HCP. No.1210 of 2018
and
CRL.M.P.No.11214 of 2018

V.Vinothkumar

... Petitioner

-Vs-

1.State represented by:-

The Inspector of Police,
K-4 Police Station, Anna Nagar Range,
Annanagar, Chennai-600 040.

2.M.Arun

3.M.Ranganayagi

4.M.Muniyan

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, directing the respondent to produce the body of the baby Simon aged 1 ½ years, son of the petitioner before the Hon'ble Court and hand over to the petitioner.

For Petitioner : Mr.J.Arokhiaraj

For Respondents: Mr.M.Mohamed Riyaz
Additional Public Prosecutor for R1

Mr.G.Mohandoss for R2

Mr.S.Panneerselvam for R3 & R4

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ORDER

[Order of the Court by C.T.SELVAM, J.]

Petitioner, who is the father of the detenu/infant child, viz., Simon, aged 1½ years, sought production of his son.

2. Heard learned counsel for petitioner, learned Additional Public Prosecutor for first respondent as also learned counsel for respondents 2 to 4.

3. Mr.S.Panneerselvam, learned counsel entered appearance for respondents 3 and 4 and has filed counter affidavit

4. Second respondent along with his elder sister viz., Rajeswari, who is the daughter of third respondent, are present before this Court and they have produced the infant child. Third respondent is also present before this Court.

5. Learned counsel for petitioner submits that the petitioner is the father as also the natural guardian of the infant child. He further submits that third respondent is a housemaid and her husband/fourth respondent is engaged as a Car Cleaner, as such their very survival is a matter for concern and while so, it is hardly likely that they would provide sufficiently for the infant child. It is the final submission of learned counsel for petitioner that in any event the custody of the minor child in the hands of the grandparents is unlawful.

6. It is not in dispute that from the date of the death of wife of the petitioner i.e., on 12.10.2017, the infant child has been in the custody of his maternal aunt/elder sister of the deceased. It is also seen a case in Crime No.1328 of 2017 on the file of the Assistant Commissioner of Police, K4 Police Station, Anna Nagar, Chennai-600 040 stands registered against the petitioner and his parents for offence under Section 306 IPC. As aforestated, the infant child has been produced and we find him hale and healthy and in good spirits. Given the attendance circumstances of the case, we consider it appropriate to dismiss this Habeas Corpus Petition with liberty to petitioner to workout his remedy in accordance with law before the appropriate forum. We would make it absolutely clear that we through the above order, are not informing anything whatsoever on the merits or otherwise of the rights of the petitioner to have the custody of the infant child.

7. Accordingly, this Habeas Corpus Petition shall stand dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CCC)

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Sub Assistant Registrar

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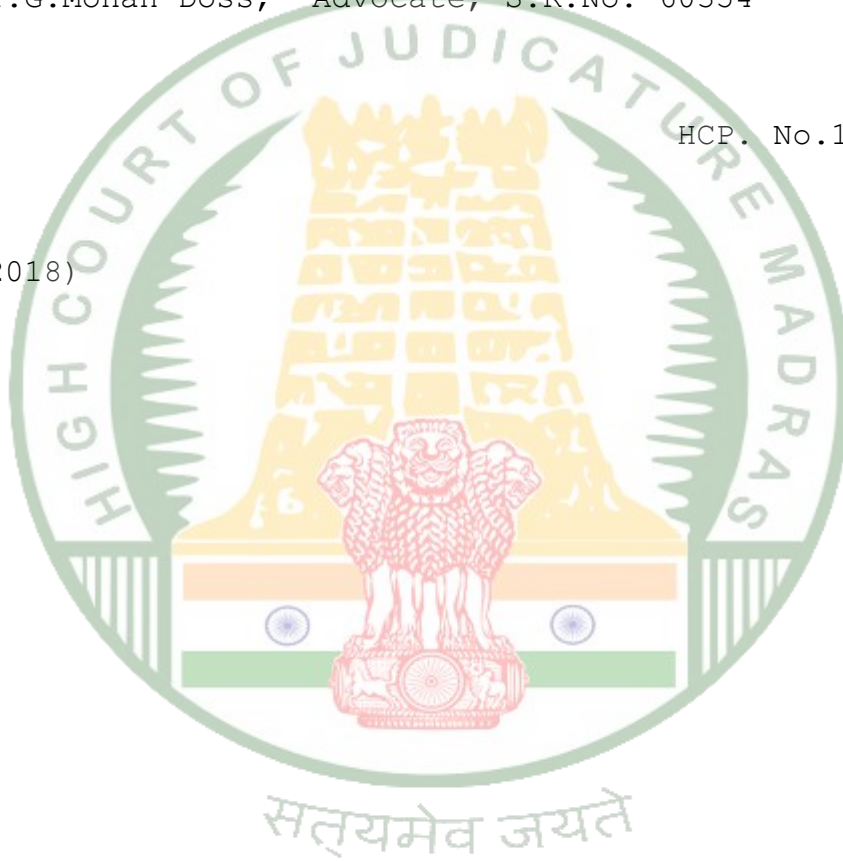
1. The Inspector of Police,
K-4 Police Station, Anna Nagar Range,
Annanagar, Chennai-600 040.
2. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.J.Arokhiaraj, Advocate, S.R.No. 61173

+3cc to Mr.G.Mohan Doss, Advocate, S.R.No. 60354

HCP. No.1210 of 2018

VD(CO)
GN(26/10/2018)



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