

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 14.06.2018

CORAM

THE HONOURABLE DR. JUSTICE S.VIMALA
AND
THE HONOURABLE MRS. JUSTICE R.HEMALATHA

H.C.P. NO. 1490 OF 2017

Priya Dharshini

.. Petitioner

- Vs -

1. N.Nandakumar
 2. The Inspector of Police
All Women Police Station
K-4 Police Station
Anna Nagar, Chennai.
 3. The Union of India
Ministry of External Affairs
South Block, New Delhi.
 4. The Ministry of Home Affairs
North Block, New Delhi.
- .. Respondents

Petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of habeas corpus directing the respondents to cause production of the body of the minor children, viz., N.Adhithya and N.Ignesh before this Hon'ble Court.

For Petitioner : Mr. R.Subburaj

For Respondents: Mr. R.Prathap Kumar, APP for R-2

Mr. K.Srinivasa Murthy, CGSC for RR-3 & 4

ORDER
(MADE BY DR. S.VIMALA, J.)

The petitioner, the mother of the detenu, has filed the present petition, seeking production of her children before this Court.

2. The petitioner has filed the petition alleging kidnapping of her children by her husband, viz., the 1st respondent from India to Srilanka and that the custody of the children must be restored to her.

3. A status report has been filed by the 2nd respondent in which it is stated that the children, N.Adhithya, aged about 11 years and N.Ignesh, aged about 9 years are in the custody of the 1st respondent and that they are in Srilanka. It is further stated that the 1st respondent came to India and stayed at the petitioner's parent's house and on 30.1.17 he took the children along with him to Srilanka on the statement that the paternal grandfather is very serious and the children must be shown to him. Therefore, from the very allegation itself it is evident that the children are in the custody of the father for a long time, in any event on and from 30.01.2017.

4. It is stated by the learned counsel for the petitioner that the petitioner is not aware of the address of her husband in Srilanka and, therefore, she is unable to proceed with the case in any legal forum. It is also stated that the notice sent to the 1st respondent, (even though the address at Srilanka is given), the notice returned with endorsement 'No such addressee' and, therefore, no legal action could be taken. Therefore, it is prayed that this Court may direct the respondents to issue 'Lookout Notice' so that the whereabouts of the children could be found and that the petitioner may be given legal custody of her children.

5. Though such a prayer is made, this Court is not inclined to issue any such order, as it is evident from the case of the petitioner herself that the children are with their father and, therefore, the children could not be said to be under illegal detention.

6. However, taking into consideration the entire factual matrix, this Court is inclined to direct the 2nd respondent to provide the correct address of the 1st respondent, if possible. It is made clear that the proper remedy open to the petitioner is to approach the District Court exercising jurisdiction under the Guardian & Wards Act by filing Guardian Original Petition. This Court cannot give any direction for custody of the children as the present custody cannot be said to be illegal.

7. Accordingly, recording the above, this Habeas Corpus Petition is closed.

Sd/-

Assistant Registrar (CS-II)

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Sub Assistant Registrar

GLN

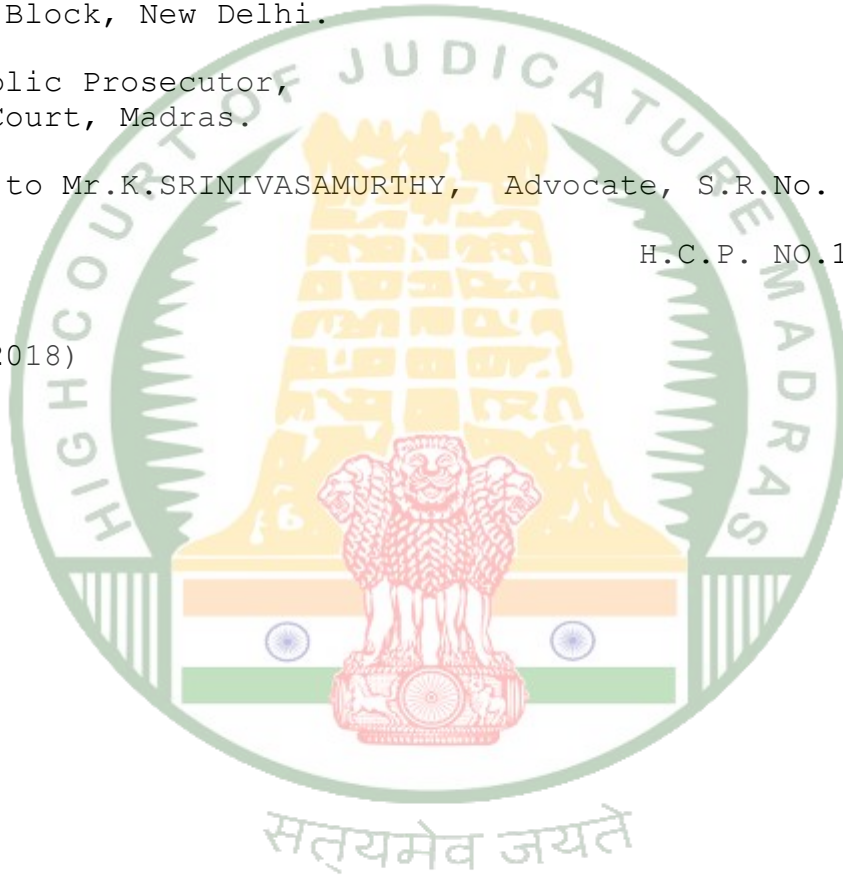
To

1. The Inspector of Police
All Women Police Station
K-4 Police Station
Anna Nagar, Chennai.
2. The Union of India
Ministry of External Affairs
South Block, New Delhi.
3. The Ministry of Home Affairs
North Block, New Delhi.
4. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.K.SRINIVASAMURTHY, Advocate, S.R.No. 37400

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VG II(CO)
TR(05/07/2018)



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