

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.05.2018

CORAM:

THE HONOURABLE MR.JUSTICE S.M. SUBRAMANIAM
And
THE HONOURABLE MRS.JUSTICE S. RAMATHILAGAM

H.C.P. No.1552 of 2017

V.Karthick @ Muthayan

... Petitioner

-Vs-

1. The Inspector of Police
Valasaravakkam Police Station
Chennai.

2. Mathumathi @ Mahalakshmi

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, directing the first respondent to produce the body of minor K.Krish, aged about 4 years Minor son of the petitioner, before the Hon'ble Court and direct to be handed over to the petitioner.

For Petitioner : Mr. P.Saravanan
For 1st Respondent : Mr.R.Ravichandran
Government Advocate
For 2nd Respondent: Mr.M.Mariappan

ORDER

[Order of the Court by S.M. SUBRAMANIAM, J.]

The relief sought for in this Habeas Corpus Petition is for a direction to direct the first respondent to produce the body of minor K.Krish, aged about 4 years, son of the petitioner, before this Hon'ble Court and direct to be handed over to the petitioner.

2. The learned counsel appearing on behalf of the second respondent made a submission that the petitioner is the husband of the second respondent and Minor K.Krish, born from and out of the wedlock between the petitioner and the second respondent. The second respondent also made submissions that the minor son is with her, who is aged about 4 years.

3. The learned Government Advocate appearing on behalf of the first respondent / Inspector of Police has also confirmed the fact that the minor son, viz., K.Krish, is now with the second respondent, who is none other than the mother and natural guardian.

4. This being the factum of the case, it is left open to the petitioner to redress his grievance in respect of seeking custody of the minor son K.Krish, aged about 4 years. This Court further clarifies that any child till attain the age of 5 years, shall be with the custody of the mother.

5. The learned Government Advocate brought to the notice of this Court that an order of dissolution of marriage had been already passed by the Court of law at United States, between the petitioner and the second respondent.

6. This being the factum of the case, we are of the considered opinion that the minor son, aged about 4 years, is now with the custody of the second respondent, who is none other than the mother and natural guardian. Thus, the relief as such sought for in this Habeas Corpus Petition cannot be granted.

7. According, this Habeas Corpus Petition is dismissed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

vsg
To:

1. The Inspector of Police
Valasaravakkam Police Station
Chennai.

2. The Public Prosecutor
High Court, Madras.

+1cc to Mr.P.Saravanan, Advocate Sr.33027
+1cc to Mr.M.Mariappan, Advocate, Sr.33135

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srg 17/05/2018