

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 16.04.2018

CORAM

THE HON'BLE Mr. JUSTICE M.VENUGOPAL
and
THE HON'BLE Mrs. JUSTICE R.HEMALATHA

H.C.P.No.332 of 2018

Chandrakala

.. Petitioner

Vs

1.The Commissioner of Police,
Commissioner Office,
Vepery, Chennai.

2.The Inspector of Police,
All Women Police Station,
Ambattur, Chennai.

3.Rajkumar

... Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS, directing the respondents herein to produce the body and person of the Detenu by name Chezhiyan Son of Chandrakala, aged about 4 years (minor) before this Court and set him at liberty.

For Petitioner : Mrs.R.Divya

For Respondents 1 & 2 : Mr.R.Ravichandran
Govt. Advocate (Crl. Side)

For 3rd Respondent : Mr.T.Narendrakumar

O R D E R

[Order of the Court was made by M.VENUGOPAL, J.]

Heard the Learned Counsel for the Petitioner, Learned Government Advocate (Crl. Side) for the Respondents 1 & 2 and the Learned Counsel for the 3rd Respondent.

2.Today, the 3rd Respondent/Husband of the Petitioner has produced his minor son Chezhiyan, aged about 4 years.

3. According to the 3rd Respondent/Husband, his minor son Chezhiyan, aged about 4 years, is with him and in fact, he has a female child by name Lakshidha, aged about two years. The said female child is under the care and custody of her mother viz., the Petitioner.

4. The stand of the 3rd Respondent/Husband is that the Petitioner viz., his wife had left his house 1 ½ months before and she wants him to be the Husband of her parents home. Furthermore, he has filed G.W.O.P.No.6 of 2018 Proceedings before the Learned District Judge No.II, Kancheepuram and the said Petition is pending wherein he had sought for the continuance of the custody of his minor son Chezhiyan.

5. Also, the 3rd Respondent/Husband has informed this Court that out of two Autos owned by him, lets out one Auto for Hire and daily he earns a sum of Rs.500/- to Rs.600/- per day and he used to take the Auto in question daily at 7 or 8 a.m. in the morning and returns after his routine work at 8.30 p.m. Therefore, he has enough means/resources to maintain his minor son Chezhiyan.

6. In this connection, the Learned Counsel for the 3rd Respondent brings it to the notice of this Court that the Petitioner [Respondent in G.W.O.P. Proceedings] till date had not received the notice/summons in the G.W.O.P.No.6 of 2018 Proceedings pending on the file of the trial Court.

7. This Court interacted with the Petitioner/Wife of the 3rd Respondent and during the course of enquiry, the Petitioner/Wife had stated that the 3rd Respondent/her Husband used to come to the house daily after taking consuming drinks and used to beat her with Fan etc. Also that, unable to bear her Husband's ill-treatment, she came to her mother's house where she is residing at No.4/112, 5th Street, Madhura Mettur, Soorapattu. Further, she had stated that her mother is employed in Vellammal Engineering College, Soorapattu and her mother is getting a monthly salary of Rs.9,000/- from the College. Added further, her father is mentally affected and she has the wherewithal to maintain not only her daughter Lakshidha as well as the minor son Chezhiyan.

8. As a matter of fact, the Petitioner as well as the 3rd Respondent's marriage between them was performed on 11.11.2012. Also, the Petitioner/Wife had stated that her Husband/ 3rd Respondent is acting in Short Film and he is beating her more often than not and unable to bear the harassment and the beating meted out by her, she went to her mother's house and she is

residing in her mother's house.

9.Continuing further, the Petitioner has brought to the notice of this Court that one day the 3rd Respondent/Husband came to her mother's house and took her minor son Chezhiyan from her custody and from that day onwards, her minor son Chezhiyan is under the care and custody of the 3rd Respondent/Husband.

10.Considering the fact that the Petitioner has a minor son aged about 4 years and another daughter by name Lakshidha aged about 2 years and also this Court, taking note of the fact that the Petitioner has come out with a plea in her Petition at para No.4 wherein she had inter alia stated that the 3rd Respondent/Husband and his family members had assaulted her and asked her to secure jewels and cash as dowry from her family members etc., this Court is of the earnest opinion that the custody and care of the Petitioner's son Chezhiyan can well be better served in the hands of the Petitioner, rather than that of the 3rd Respondent/Husband.

11.Viewed in that perspective, this Court passes an order in directing the handing over of the minor son of the Petitioner viz., Chezhiyan, aged about 4 years from the custody of the 3rd Respondent/Husband to and in favour of the Petitioner today. This Court further orders that the Petitioner shall take care of the minor son Chezhiyan as well as the Daughter Lakshidha and it is made quite clear by this Court that it is open to the 3rd Respondent/ Husband to visit the Petitioner's house and to see his two Children, of course, after duly intimating his date of visit and time to the Petitioner well in advance, once in a week viz., Sunday from 9.00 a.m. to 10.00 a.m. Further, it is open to the respective parties to workout their remedies before the G.W.O.P. Proceedings pending on the file of the District Court No.II, Kancheepuram.

12.With the aforesaid observations/directions, the Habeas Corpus Petition stands disposed of.

Sd/-

Assistant Registrar (CS VIII)

//True copy//

Sub Assistant Registrar

Sgl

To

1.The Commissioner of Police,
Commissioner Office,
Vepery, Chennai.

2.The Inspector of Police,
All Women Police Station,
Ambattur, Chennai.

3.The District Court No.II,
Kancheepuram.

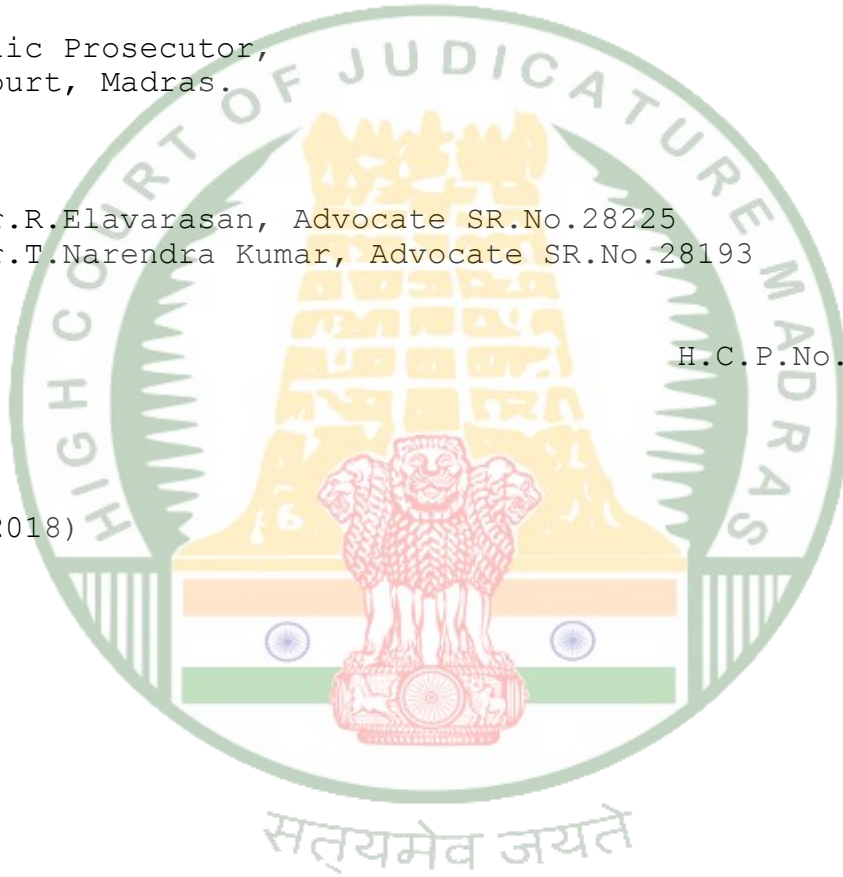
4.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.R.Elavarasan, Advocate SR.No.28225

+1cc to Mr.T.Narendra Kumar, Advocate SR.No.28193

H.C.P.No.332 of 2018

RJ(CO)
GN(03/05/2018)



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