

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.06.2018

CORAM:

THE HON'BLE Dr. JUSTICE S.VIMALA

AND

THE HON'BLE MRS. JUSTICE S.RAMATHILAGAM

Habeas Corpus Petition No.469 of 2018

Dr. P.Sivasankar ... Petitioner /
Father of the detainee
versus

1. The Superintendent of Police,
Thiruvannamalai District, Thiruvannamalai
2. The Inspector of Police,
Thiruvannamalai Town Police Station,
Thiruvannamalai District
3. J.K.Sathiya ... Respondents

Habeas Corpus Petition filed under Article 226 of the Constitution of India praying for a direction to direct respondents to produce the detainee, Minor Son Kumaran, Son of Sivasankar, aged about 3 1/2 years before this Court by entrusting the custody of the minor son Kumaran to the petitioner.

For Petitioner : Mr. R.Sankarasubbu
For Respondents : Mr. R.Prathap Kumar, APP.,
for R-1 & R-2,
Mr. B.Manoharan, for R-3.

सत्यमेव जयते

O R D E R

(Order of the Court was made by S.Vimala, J.,)

This petition has been filed by the petitioner (father of the detainee) seeking to produce the detainee, Minor.Kumaran, Son of Sivasankar, aged about 3 1/2 yeas before this Court, by entrusting the custody of the detainee to the petitioner.

2. The second respondent has produced the third respondent and the child / Minor Son, Kumaran, S/o.Sivasankar. The child is admittedly aged 3 1/2 years. It is stated that the proceedings for maintenance and petition for divorce are pending before the competent Civil Court.

3. The learned counsel appearing for the petitioner would seek visiting rights of the child.

4. Under normal circumstances, in the interest of the child, this Court would not have been reluctant to order visiting rights. However, having regard to the facts of this case, we are afraid that the meeting between the petitioner and the third respondent may not be smooth, as there is an allegation of murder of the petitioner's mother by the third respondent in respect of which, a case has been already registered and it is pending consideration. The child being very tender age, the assistance of the mother is very much required and hence, at this stage, it is not possible for this Court to order the visiting rights.

5. Under such circumstances, we are unable to consider the request of the petitioner for visiting rights, even though he is entitled for that. Therefore, to work out the modalities of exercising visiting rights, it is better for the petitioner to move the appropriate Civil Court, disclosing all these facts and to obtain appropriate orders from the competent Civil Court.

6. With the above observations, this Habeas Corpus Petition is closed.

Sd/-
Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

srk

To

1. The Superintendent of Police,
Thiruvannamalai District, Thiruvannamalai
2. The Inspector of Police,
Thiruvannamalai Town Police Station,
Thiruvannamalai District
3. The Public Prosecutor, High Court, Madras.

H.C.P.No.469 of 2018

PPA (CO)
TR(13/07/2018)