

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.03.2018

CORAM:

THE HONOURABLE MR.JUSTICE C.T.SELVAM
and
THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

H.C.P. No.525 of 2018

Nanthini

... Petitioner

-Vs-

1.The Inspector of Police,
All Women Police Station,
Sathyamangalam, Erode District.

2.Sivakolunthu

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, directing the respondents to produce the body of the petitioner's daughter namely Sudhi @ Kayalvizhi, Aged 7 Years, Minor and son namely Sembiyan, aged 5 years, produce him/her before this Hon'ble Court and set at liberty.

For Petitioner : Mr.I.C.Vasudevan

For Respondents: Mr.R.Prathap Kumar
Additional Public Prosecutor (R1)
Mr.S.Parthasarathy
for Mr.Madhu Balan (R2)

ORDER

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

Petitioner, who is the mother of the detenues, namely, Sudhi @ Kayalvizhi, aged 7 Years, and son Sembiyan, aged 5 years, seeks production of her children.

2. Heard learned counsel for petitioner, learned Additional Public Prosecutor appearing for first respondent and learned counsel for second respondent.

3. Petitioner/mother of two minor children has informed that her first husband having died, she had entered into a second marriage on 19.01.2018 and this has prompted the parents of her first husband/second respondent and his wife to abduct her minor daughter by name Sudhi @ Kayalvizhi and son by name Sembiyan. Pursuant to notice issued by this Court, the minor children were produced and we have interacted with them in chambers. Though we were informed by the children

that they wished not to return to the care of the mother, we, being of the view that such stand of theirs might not be a voluntary one, considered it appropriate and passed the following order on 20.03.2018:-

"We have interacted with the petitioner her in laws as also the Investigation Officer and the learned Additional Public Prosecutor. We have also interacted with the children.

We presently direct the petitioner's in laws i.e., Siva Kozhunthu S/o.Raj and second respondent Palaniammal-his wife to leave the minor children in the custody of the petitioner by 6 p.m on 23.03.2018. Petitioner shall be present along with the children before this Court on 26.03.2018. The second respondent as also her husband may be present. The first respondent is required to over see and ensure the working of arrangement now ordered.

Post on 26.03.2018 at 02.15.p.m at the Chambers."

4. Petitioner has produced the minor children today. Second respondent and his wife are also present. The children presently have informed us that they wish to be under the care and custody of their mother. Petitioner, being the natural Guardian, is entitled to have custody of the children, unless she is held to be a person unworthy by an appropriate order of Court. We have informed the second respondent and his wife that they may visit the children as also required the petitioner not to stand in the way of the second respondent and his wife doing so.

5. Learned counsel for second respondent wishes that this Court places on record the allegation of second respondent of the minor children being ill-treated by the present husband of the petitioner and hence we do so, expressing the view that petitioner, as any mother, would hold paramount the interests of her children.

6. We close this Habeas Corpus Petition with the observations herein above contained.

Sd/-

Assistant Registrar(CS-IX)

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Sub Assistant Registrar

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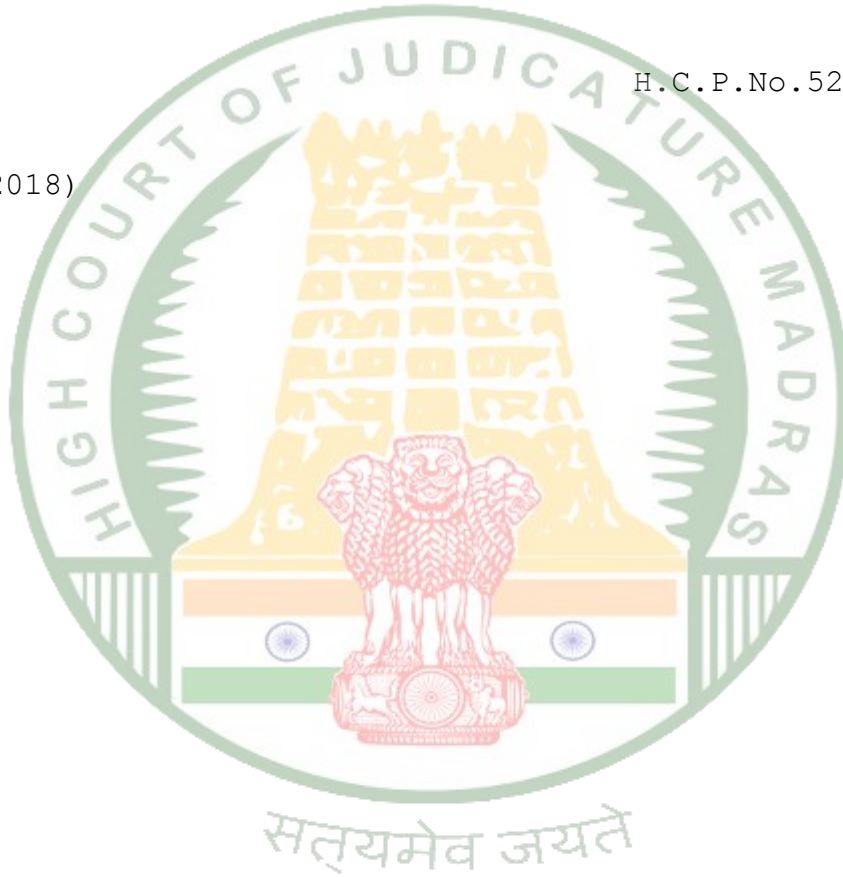
1.The Inspector of Police,
All Women Police Station,
Sathyamangalam, Erode District.

2.The Public Prosecutor
High Court, Madras.

+ 1 cc to M/s. I.C. Vasudevan, Advocate SR.22742
+ 1 cc to M/s. S. Parthasarathy, Advocate Sr.22908

H.C.P.No.525 of 2018

SJ(CO)
EU(17/04/2018)



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