

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.06.2018

CORAM:

THE HON'BLE MR.JUSTICE M.VENUGOPAL
AND
THE HON'BLE MRS.JUSTICE M.NIRMAL KUMAR

H.C.P.No.764 of 2018

R.Balakrishnan Petitioner

vs.

1.The Inspector of Police,
V-6, Kolathur Police Station,
Kolathur, Chennai.

2.Rajan

3.Lalitha ... Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of habeas corpus directing the First Respondent Police to produce the Petitioner's minor Grand Daughter, namely, Sanjana Shree, from the illegal custody of the Respondents 2 and 3, before this Court and handover the custody of the minor child to the Petitioner.

For Petitioner : Mr.S.Srinivasu

For Respondents: Mr.R.Prathap Kumar,
Additional Public Prosecutor
for R1

ORDER

(Order of the Court was made by M.VENUGOPAL, J.)

The Petitioner/Paternal Grandfather has preferred the instant Writ of Habeas Corpus Petition before this Court, praying for passing of an order by this Court in directing the First Respondent/Inspector of Police, V-6, Kolathur Police Station, to produce his minor Grand Daughter, viz., Sanjana Shree, aged about three years and three months, who is under the illegal custody of the Second and Third Respondents and to handover the custody of the minor child to him.

2.The Petitioner is the Father of B.Anand, who died in an accident that took place on 18.02.2018. Anand's wife Anusha also died in the said accident. In fact, the Second and Third Respondents are the Parents of deceased Anusha. As a matter of fact, Anusha, the Daughter of the Second and Third Respondents and Daughter-in-Law of the Petitioner died on 18.02.2018.

3.According to the Petitioner, his Grand Daughter, Sanjana Shree, was with him right from her birth till 15.04.2018, the date of complaint lodged by the Petitioner with the Kolathur Police Station. It is the plea of the Petitioner that on 16.4.2018, the minor child Sanjana Shree was taken from the First Respondent Police Station by the Second and Third Respondent and that they had taken the child to Kerala, where, the Second and Third Respondents are presently residing.

4.At this stage, the Learned Additional Public Prosecutor for the First Respondent submits that the Third Respondent lodged a complaint before the First Respondent Police Station and obtained C.S.R.No.81 of 2018, on 29.3.2018. Both parties, viz., the complainant as well as the Second and Third Respondents were called for an enquiry by the Police and ultimately, on 15.4.2018, at 9.00 hours, the Detenu was handed over to the Second and Third Respondents.

5.It is to be noted that the minor child, A.Sanjana Shree is studying in L.K.G. at Marathoma School, Thirussur District, Kerala, according to the Third Respondent (Lalitha) and that the said minor girl is under the care and custody of the Second and Third Respondents.

6.It comes to be known that the Third Respondent (Lalitha) had instituted Original Petition under Sections 7 and 8 of the Guardian and Wards Act and Section 7(1) Explanation (g) of the Family Court Act, before the Family Court, Thrissur, wherein, the present Petitioner in H.C.P.No.764 of 2018, is mentioned as First Respondent. In the said Petition, the minor is also shown. The minor girl Sanjana Shree's date of birth is mentioned in the Original Petition as 01.01.2015.

7.A perusal of the Original Petition filed by the Third Respondent in H.C.P.No.764 of 2018 indicates that a prayer was made by the Third Respondent seeking to appoint her as Guardian of the said minor child Sanjana Shree, both of her person and property and furthermore, a permanent custody of the minor girl, A.Sanjana Shree, was also sought for. It appears that in the Original Proceedings before the Family Court, at Thirussur, notice was ordered.

8.Since the Petitioner's Grand Daughter Sanjana Shree is produced before this Court by the Second and Third Respondent

today and also taking note of the fact that the Third Respondent (in H.C.P.No.764 of 2018) had filed Original Proceedings, on the file of the Family Court, Thrissur and the same being pending, at this stage, this Court, simpliciter, without expressing any opinion on the merits of the matter and also not dwelling deep any further closes the present Habeas Corpus Petition, directing the respective parties/Grand Parents of the minor child A.Sanjana Shee, to work out their remedies before the competent Forum, of course, in the manner known to Law and in accordance with Law, if they so desire/advised. It is also made clear that the Second and Third Respondents shall not prevent the Petitioner (R.Balakrishnan and his wife Lalitha) to visit the minor child Sanjana Shree at Plavila Veedu, Pullayil (P.O.), Kilimanoor [presently residing at Valiyakath House, Chiyyaram (P.O.), Chiyyaram Village, Thrissur District-680 723 (Nedupuzha Police Station)]. The Petitioner(R.Balakrishnan) in H.C.P.764 of 2018 and his wife Lalitha shall give an advance intimation to the Second and Third Respondents (Rajan and Lalitha) about the date and time of their visit to Kerala to visit and see the minor child A.Sanjana Shree and the Second and Third Respondent are directed to make necessary arrangements so as to enable the Petitioner and his Wife Lalitha to see the child in a peaceful and cordial atmosphere.

With the above said observations/directions, the Habeas Corpus Petition stands closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To

1.The Inspector of Police,
V-6, Kolathur Police Station,
Kolathur, Chennai.

2.The Public Prosecutor,
High Court, Madras

+2cc to Mr.R.Prathap Kumar, Advocate sr.no.36088
+1cc to Mr.S.Srinivasu, Advocate sr.no.35626

HCP.NO.764/2018

NR 14/06/2018