



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

**Dated: 15.02.2018**

Coram :-

**THE HON'BLE DR.JUSTICE S.VIMALA**

and

**THE HON'BLE MRS.JUSTICE T.KRISHNAVALLI**

**Habeas Corpus Petition No.106 of 2018**

Sankari

... Petitioner

-vs-

1. The Superintendent of Police,  
Tirunelveli District, Tirunelveli.

2. The Inspector of Police,  
Suthamalli Police Station,  
Tirunelveli District.  
(Crime No.39/18)

3.Kalirajan

4.Selvam @ Chellammal

5.Jeyakala

... Respondents

Prayer: Habeas Corpus Petition is filed under Article 226 of Constitution of India, seeking a direction to the first and second respondents to produce the body of the detenu/petitioner's son by name Aswath, S/o.Kalirajan aged about 3 and half years before this Court and set him at liberty.

For Petitioner : Mr.P.Samuel Gunasingh

For Respondents : Mr.C.Ramesh for R1 & R2

Addl. Public Prosecutor

No appearance for R4 & R5

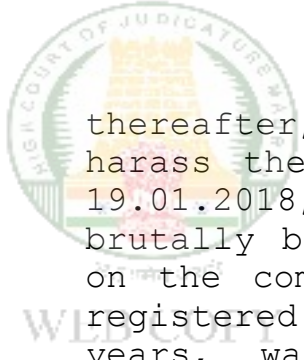
For Respondent No.3 : Mr.G.Sathyannarayanan

### **O R D E R**

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

This petition has been filed by the mother of the detenu for a direction to the respondents to secure the detenu, namely, Aswath, S/o.Kalirajan, aged about 3½ years, and set him at liberty.

2. According to the petitioner, earlier, due to the torture at the hands of her husband/third respondent, the petitioner made a complaint to the respondent police and



thereafter, on the promise given by her husband that he would not harass the petitioner, further action was dropped. However, on 19.01.2018, it is alleged that the petitioner was assaulted brutally by her husband and she was admitted in the hospital and on the complaint given by the petitioner, a case has also been registered on 21.01.2018. While so, the child, who is aged 3½ years, was found missing from 19.01.2018. Therefore, the petitioner again lodged a complaint and since no effective steps were taken, the petitioner is before this Court.

3. When the matter was taken up for hearing, on 01.02.2018, this Court passed the following order:

"This petition has been filed by mother, seeking direction to the first and second respondents to produce her son by name Aswath, S/o. Kalirajan, aged about 3 ½ years before this Court and set him at liberty.

2. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for R1 and R2.

3. The husband and the wife are present before this Court. On enquiry with the wife, she has alleged that she was harassed, humiliated and tortured by her husband and her husband has also kidnapped her 3 ½ years old son, who is a special child.

4. Considering the interest of the child, negotiation was done in the presence of the learned counsel on either side and the learned Additional Public Prosecutor and it is agreed by them that as an interim measure, custody of the child will be with the mother and the visitation right will be given to the father to see his son on every Saturday and Sunday.

5. In view of the interim arrangement between the parties, the child is given custody to the mother and the husband is given visitation right to see his son on every Saturday and Sunday.

6. At this juncture, it is represented by the learned counsel on both sides that there is a possibility of amicable settlement between the parties and therefore, the matter may be referred to the Mediation Centre attached to this Court. Hence, the matter is referred to the Tamil Nadu Mediation and Conciliation Centre attached to this Court for conciliation.



4. Today, it is stated that the mediation process could not succeed. The petitioner along with the detenu is present before this Court and she would state that when she wanted return of the cloth of the child, her husband insisted that all the sreedhana articles of the wife must be taken back and only then, he will hand over the dresses of the detenu. Accordingly, she has taken back all her sreedhana articles and there is no scope for settlement even before the Mediation Centre. The child is a special child, which requires much care. Today, neither the third respondent nor the learned counsel for the 3<sup>rd</sup> respondent is present. Having regard to the age of the child, at present, we are of the view that the child can get better medical treatment only if the child is in the custody of the mother.

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

Sd/-  
Assistant Registrar(T&P)

/True Copy/

Sub Assistant Registrar

To:

1. The Superintendent of Police,  
Tirunelveli District, Tirunelveli.
2. The Inspector of Police,  
Suthamalli Police Station,  
Tirunelveli District.
3. The Additional Public Prosecutor  
Madurai Bench of Madras High Court, Madurai.

+1cc to Mr.P.Samuel Gunasingh, Advocate Sr.No.49085

+1cc to Mr.G.Sathyanarayanan, Advocate Sr.No.49202

RR

VB/KK/SAR3/02.04.2018/3P/6C

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