



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 31.01.2018

Coram :-

THE HON'BLE DR.JUSTICE S.VIMALA

and

THE HON'BLE MRS.JUSTICE T.KRISHNAVALLI

Habeas Corpus Petition (MD) No.56 of 2018

P.Janarthanan

... Petitioner

-vs-

1. The Superintendent of Police,
Office of the Superintendent of Police,
Kanyakumari District.
2. The Deputy Superintendent of Police,
Office of the Deputy Superintendent of Police,
Kanyakumari District.
3. The Sub-Inspector of Police,
Thenthamaraikulam Police Station,
Kanyakumari District.

... Respondents

Prayer: Habeas Corpus Petition is filed under Article 226 of Constitution of India, seeking a direction to the respondents to produce the body of the petitioner's three sons, namely 1.Prathap 2.Prakash 3.Prasanth and one daughter Praveena, aged about 15, 14, 12 and 9 years respectively before this Court and hand over their custody to the petitioner.

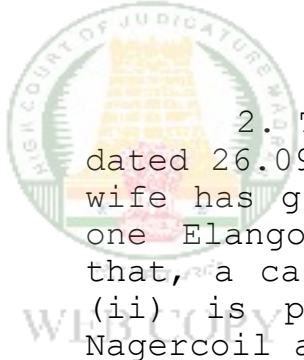
For Petitioner : Mr.V.Muthumani

For Respondents : Mr.C.Ramesh
Addl. Public Prosecutor

O R D E R

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

The petitioner has filed this petition, seeking direction to the respondents to produce his three sons, namely 1.Prathap, 2.Prakash, 3.Prasanth and one daughter Praveena, aged about 15, 14, 12 and 9 years respectively before this Court and hand over their custody to him.



2. The petitioner herein has submitted a representation dated dated 26.09.2017 to the respondents, in which he has stated that his wife has given a false complaint against him at the instigation of one Elango, S/o.Chinna Nadar, Kanyakumari District and based on that, a case in Crime No.490 of 2015 under Sections 294(b) and 506 (ii) is pending before the learned Judicial Magistrate No.III, Nagercoil and the petitioner was remanded to judicial custody. It is further stated in the representation that his wife has left the matrimonial home along with children and has also taken away all the household articles.

3. The averments raised in the petition would go to show that the children are in the custody of mother. It is stated that pursuant to his wife's non appearance before the learned Judicial Magistrate No.III, Nagercoil, a witness warrant is pending against her. It is the duty of the prosecuting Police Officials to produce the witness, namely, wife before the learned Magistrate.

4. When it is stated by the petitioner himself that the children are in the custody of mother, then it cannot be said that they are in illegal custody. It appears that there is a difference of opinion between the husband and the wife and wife has taken away the children from the custody of the petitioner. Therefore, the remedy open to the petitioner is elsewhere, not before this Court.

5. In the result, the Habeas Corpus Petition is dismissed.

Sd/-

Assistant Registrar(P&A)

/True Copy/

Sub-Assistant Registrar

To:

- 1.The Superintendent of Police,
Office of the Superintendent of Police,
Kanyakumari District.
- 2.The Deputy Superintendent of Police,
Office of the Deputy Superintendent of Police,
Kanyakumari District.
- 3.The Sub-Inspector of Police,
Thenthamaraikulam Police Station,
Kanyakumari District.
- 4.The Additional Public Prosecutor
Madurai Bench of Madras High Court,
Madurai.

Ar

RL/5C/2P/MR/SAR2/9/2/2018

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31.01.2018