



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 16.07.2018

CORAM:

THE HONOURABLE Mr. JUSTICE C.T.SELVAM
and
THE HONOURABLE Mr. JUSTICE A.M.BASHEER AHAMED

H.C.P.(MD)No.815 of 2018

K.Kaliyaperumal ... Petitioner
Vs.

- 1.The Superintendent of Police,
O/o. Superintendent of Police,
Thanjavur,
Thanjavur District.
- 2.The Deputy Superintendent of Police,
O/o. Deputy Superintendent of Police,
Kumbakonam,
Thanjavur District.
- 3.The State represented by
Inspector of Police,
Kumbakonam West Police Station,
Kumbakonam,
Thanjavur District.
- 4.S.Kaliyamoorthy
- 5.Kamatchi

... Respondents

PRAYER: The petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus, directing the 1st and 3rd respondents to produce the body of the detainee petitioner's son namely Niranjana S/o. Kaliyaperumal aged about 4 years before this Hon'ble Court and give him to the petitioner's custody.

For Petitioner	: Mr.N.R.Balaji
For Respondents	: Mr.K.Dinesh Babu
1 to 3	Additional Public Prosecutor
For Respondents	: Mr.G.Gomathi Sankar
4 & 5	

ORDER

(Order of the Court was made by C.T. SELVAM,J.)

This petition has been filed by the father, seeking production of his son, Niranjana, aged about 4 years.

2.Heard learned counsel for petitioner, learned Additional Public Prosecutor for respondents 1 to 3 and learned counsel for respondents 4 and 5.



3. It is admitted case that after the death of the petitioner's wife by suicide, the infant child of the petitioner was in the custody of respondents 4 and 5, his maternal grand parents. Petitioner has moved this Court on 11.06.2018 and on 05.06.2018 respondents 4 & 5 moved G.O.P.No.77 of 2018, on the file of Principal District and Sessions Court, Thanjavur, towards retaining custody of the child. A perusal of the G.O.P. filed by the respondents 4 and 5 informs that the petitioner has not remarried and is a caring father, who regularly visits the child and spends much time with the child. Learned counsel for petitioner would submit this is to be seen as an admission of petitioners good and caring nature towards the child whom he is the natural guardian. This Court sees such admission of respondents 4 and 5 as showing their truthful nature. The child has been in their custody since the death of his mother three years ago.

5. Learned counsel for petitioner submits that petitioner is paying the school fees of the child and the child was put in the custody of the petitioner, but was taken back by respondents 4 and 5. Third respondent has called over phone and forced handing over of the custody of the child to respondents 4 and 5 on 27.05.2018. Learned counsel for respondents 4 and 5 would submit that petitioner paid school fees of the detenu on one occasion.

6. Given the facts and circumstances of the case, we are of the view that it would be appropriate that although the petitioner is the natural guardian, the question of guardianship is left to be decided by the Court dealing with G.O.P.No.77 of 2018. We place on record the submission of learned counsel for respondents 4 and 5 that the hitherto practice of petitioner visiting the detenu and spending time with him will not be restricted or hampered.

7. In view of the above, this Habeas Corpus Petition stands dismissed.

Sd/-
Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar(CS-II)

To

1. The Superintendent of Police,
O/o. Superintendent of Police,
Thanjavur,
Thanjavur District.

2. The Deputy Superintendent of Police,
O/o. Deputy Superintendent of Police,
Kumbakonam,
Thanjavur District.



3.The Inspector of Police,
Kumbakonam West Police Station,
Kumbakonam,
Thanjavur District.

4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to M/S.N.R.Balaji, Advocate SR.No. 73307

+1cc to M/S.G.Gomathi Sankar, Advocate SR.No. 73067

H.C.P. (MD) No.815 of 2018
16.07.2018

sj

JM/SKN RSK/SAR 2/01.08.2018/3P/7C