



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 09.05.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ
AND
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

H.C.P. [MD].No. 1117 of 2017

Dr.Johny

: Petitioner

Vs.

1. Union of Indian,
Rep. by the Principal Secretary,
Ministry of External affairs,
Union of India, E Block,
Central Secretariat,
New Delhi.
2. The Principal Secretary,
Ministry of Overseas Indian Affairs,
Union of India,
Jaisalmer House, Mansingh Road,
New Delhi - 110011.
3. The State of Tamilnadu
Rep. by the Principal Secretary,
Home Department,
State of Tamilnadu,
Fort St. George, Chennai.
4. The Superintendent of Police,
Nagercoil, Kanyakumari District.
5. The Inspector of Police,
All Women Police Station, Nagercoil.
6. Mr.Vasuthevan Shanmugam : Respondents

PRAYER: Habeas Corpus Petition is filed under Article 226 of the Constitution of India to direct the respondents-4 & 5 herein to produce the body of the detainee by name Minor Girl Ms.Yana A. D/o. Johny aged about three years detained along with Agilaandeeswari W/o. Johny aged about 30 years, from the illegal custody of the Sixth respondent and his associates.

For Petitioner

:

Mr. G.V.Vairamsanthosh

For Respondents

:

Mr.P.Paulpandi for RR1&2

Mr.M.Chandrasekaran RR3 to5

Mr.K.C.Ramalingam for R6

**O R D E R****[Order of the Court was made by G.R.SWAMINATHAN, J.]**

The petitioner seeks production of his minor child along with his wife, who are said to be in the illegal custody of the 6th respondent herein. The petitioner and the said Agilaandeeswari had done their medical studies together. They got married on 11.07.2012. They returned to India in the year 2015 and a minor child was born on 09.02.2015.

2. According to the petitioner, at the instance of the 6th respondent, who is none other than his father-in-law, his wife and child were taken illegally back to Malaysia, in July 2017. His wife was three months pregnant then. The petitioner would further state that he was illegally detained by the 5th respondent during the relevant time in order to facilitate the 6th respondent herein to forcibly take his wife and child. Hence, he filed the present Habeas Corpus Petition.

3. Heard the learned counsel appearing for the petitioner.

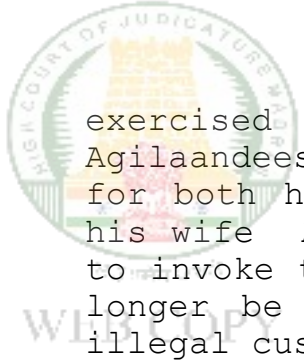
4. The 6th respondent has also filed a counter affidavit denying the allegations made by the petitioner. The 6th respondent would contend that, his daughter Agilaandeeswari was ill-treated by the petitioner, when she was staying in the matrimonial home. In order to rescue his daughter and his grand child from the torture meted out by the petitioner, he had to intervene. He would deny that his daughter is in his illegal custody.

5. The petitioner's wife, who is the daughter of the 6th respondent, has also filed an affidavit dated 26.04.2018. In the said affidavit, it is alleged that she voluntarily left the petitioner's house on 10.07.2017, after giving a police complaint.

6. The learned counsel for the petitioner would submit that the petitioner's wife and the children could be directed to be produced before this Court and that the petitioner would even bear the travel expenses.

7. This Court, after hearing both the parties, is of the view that the Habeas Corpus Petition is liable to be dismissed, in view of the factual subsequent development that has taken place in this case.

8. This petition was filed in July 2017. Thereafter, the petitioner issued a legal notice through his counsel at Malaysia claiming visitation rights, on 17.11.2017. He also proceeded to file a case before the High Commission of India, Kuala Lumpur. A consent order was also passed on 13.02.2018. The consent order enables the petitioner herein to have access to his children over two weeks on Sunday for three hours for 4p.m. until 7p.m, starting from 25.02.2018. It was also clarified that this access right will be



exercised under the supervision of the petitioner's wife Agilaandeeswari. The petitioner was also directed to pay maintenance for both his children, which was to be banked into the account of his wife Agilaandeeswari. Since the petitioner has already chosen to invoke the legal process of Malaysian High Commission, it can no longer be contended that the petitioner's wife and child are in illegal custody.

9. The prayer in this Habeas Corpus Petition is for production of his minor child along with his wife. In this regard, the petitioner already obtained visitation rights before the Malaysian High Court. In this view of the matter, the grievance raised in this Habeas Corpus Petition no longer survive for adjudication. Hence, this Court is not only entitled to, but, it is also obliged to take note of the subsequent developments. This Court cannot shut its eyes. In such view of the matter, nothing survives for further adjudication in this Habeas Corpus Petition and this Habeas Corpus Petition stands dismissed as infructuous.

Sd/-
Assistant Registrar(CS-I)

/True copy/

Sub Assistant Registrar

To

1. The Principal Secretary,
Ministry of External affairs,
Union of India, E Block,
Central Secretariat, New Delhi.
2. The Principal Secretary,
Ministry of Overseas Indian Affairs,
Union of India,
Jaisalmer House, Mansingh Road,
New Delhi - 110011.
3. The Principal Secretary,
Home Department,
State of Tamil Nadu,
Fort Saint George,
Chennai - 9.
4. The Superintendent of Police,
Nagercoil,
Kanniyakumari District.
5. The Inspector of Police,
All Women Police Station, Nagercoil,
Kanniyakumari District.



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

+1cc to Mr.Paulpandi, Advocate, SR.No.65188.

+1cc to Mr.K.C.Ramaligam, Advocate, SR.No.65192.

ORDER MADE IN
H.C.P. [MD].No. 1117 of 2017
09.05.2018

ksa/rr

RAM/SKN RSK/SAR 1/08.06.2018/4P/9C