



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.01.2018

CORAM:

THE HONOURABLE DR. JUSTICE S.VIMALA
AND
THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI

HCP [MD].No.1687 of 2017

Robert Bellarmine : Petitioner
Vs.

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

2.The Inspector of Police,
Pallamthurai Police Station
Kanyakumari District

3.Felix Suresh Kumar : Respondents

PRAYER: Habeas Corpus Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Habeas Corpus to direct the respondents herein to produce the body of the detainees namely, Minor Renil Rojar (Boy), Minor.Riya Rakshika (Girl) before this Court and hand over them custody to the petitioner.

For Petitioner : Mr.S.Rajeshkanna
For Respondents : Mr.C.Ramesh
Additional Public Prosecutor

ORDER

[Order of the Court was made by S.VIMALA, J]

The petitioner, who is the father the detenu, namely, Renil Rojar (Boy), and Riya Rakshika (girl) has moved this petition for a direction to the Respondent Nos.1 and 2 to produce the minors before this Court and hand over their custody to the petitioner herein.

2. According to the petitioner, the marriage between the petitioner and his wife Maria REXIA took place on 03.09.2004 and thereafter, they got two children out of the legal wedlock. Due to the persistent dispute between the husband and wife, the husband has filed IDOP No.158/2016, on the file of the District Court, Kanyakumari District. Perusal of the records, reveals that the wife has also entered appearance and counter has been filed and the matter is pending adjudication. The suspicion entertained by the petitioner is that his wife might have eloped with the third respondent, who is an Auto Driver. This suspicion is supported by



the allegation that the wife of the third respondent has also filed a complaint before the Velichanthai Police Station, and the same has been registered in CSR No.244/2017. The main allegation is that after kidnapping the children, in whose name, a sum of Rs.6 lakhs has been deposited, there is a likelihood of money being swindled both by his wife as well as by the third respondent.

3. However, on instructions, the learned Additional Public Prosecutor represented the State has submitted that the detainees/children are safely in the custody of the grandfather.

4. When the circumstances show that the petitioner's wife has entered appearance in IDOP No.158/2016 and the matter is pending adjudication, the contention that she is in illegal custody cannot be accepted. The facts and circumstances would go to show that it is a clear case of misuse of process of law and therefore, we are constrained to dismiss this petition. Accordingly, this Habeas Corpus Petition is dismissed.

Sd/-

Assistant Registrar(CS-III)

/True Copy/

Sub Assistant Registrar

To

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

+1CC to Mr.S.Rajeshkanna, Advocate, SR.No. 41226

ORDER MADE IN
HCP .[MD].No.1687 of 2017
09.01.2018

RR

AM/KK/SAR 1/29.01.2018/2P/5C