



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.07.2018

CORAM:

THE HONOURABLE Mr. JUSTICE C.T.SELVAM

and

THE HONOURABLE Mr. JUSTICE A.M.BASHEER AHAMED

H.C.P.(MD)No.880 of 2018

Kavitha

... Petitioner

Vs.

1.The Commissioner of Police,
Madurai City,
Madurai.

2.The Inspector of Police,
Jaihindpuram Police Station,
Madurai City.

3.Selvaraj

4.Paiyammal

... 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 2nd respondents to secure the detenu and produce the body or person of the detenu, viz., Minor Manish Viswa, S/o. (late) Senthilkumar, aged 7 years illegally detained by the 3rd and 4th respondents before this Hon'ble Court and handover the custody of the detenu to the Petitioner.

For Petitioner : Mr.S.Prabha

For Respondents : Mr.K.Dinesh Babu

1 & 2

Additional Public Prosecutor

For Respondents : Mr.V.OM.Prakash

3 & 4

ORDER

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

This petition has been filed by the mother, seeking production of her son, Minor Manish Viswa, aged about 7 years. The detenu, 7 year old son of the petitioner is produced today by the third and fourth respondents and at the request of the second respondent.

2.We have heard learned counsel for petitioner, learned Additional Public Prosecutor for respondents 1 & 2 and learned counsel for respondents 3 & 4 and interacted with the petitioner, the child and the petitioner's father.

3.Petitioner's father informs that his daughter is under his care. Petitioner has informed that she and her husband led a happy married life for seven years and her husband died on 17.06.2018. Learned counsel for respondents 3 and 4 informs that petitioner's



husband had been working as a lecturer at a college and disputes arose between the petitioner and her husband owing to the petitioner's developing an illicit affair. Learned counsel has stated that at mediation conducted between the petitioner and her husband, the petitioner had agreed to consent to mutual divorce and relinquish her right over the child but made a demand for maintenance. Thereafter, no petition for mutual divorce has been filed by the petitioner or her husband. Learned counsel for the petitioner denies such submissions. We have heard the petitioner and she too does so.

4. Learned counsel for petitioner brings to the notice of this Court that the third respondent has moved a petition in G.W.O.P.No.10 of 2018 under Guardian and Wards Act, 1890 and subsequent to the filing of such petition, this Habeas Corpus Petition has been filed.

5. It does not fall upon this Court to accept or reject the submissions of either side. Petitioner is the mother of the seven year old boy. Detenu's father is no more. Petitioner is the natural guardian, entitled to the custody of the child. It is seen that no Court has not declared that she is disentitled thereto. In such view of the matter the minor boy is handed over to the custody of the petitioner in the presence of her counsel. It is for the parties to workout their rights before appropriate forum.

6. In view of the above, this Habeas Corpus Petition stands closed.

Sd/-

Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar

To

1. The Commissioner of Police,
Madurai City, Madurai.

2. The Inspector of Police,
Jaihindpuram Police Station,
Madurai City.

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

+1cc to M/S.S.Prabha, Advocate SR.No. 70793

+1cc to M/S.V.OM.Prakash, Advocate SR.No. 70732

H.C.P. (MD) No.880 of 2018
02.07.2018