

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.11.2019

Coram

The Hon'ble Mr. Justice M.M.SUNDRESH
and
The Hon'ble Mr. Justice RMT. TEEKAA RAMAN

H.C.P. No. 318 of 2019

D.Eswari

... Petitioner

-vs-

1.R.Deepak

2.The Inspector of Police (L & O),
T - 14 Mangadu Police Station,
Mangadu.

... Respondents

Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, directing the respondents to produce the detenu Reeya, aged about 5 years minor child of the petitioner from the illegal custody of the first respondent and hand over to the lawful custody of the petitioner.

For Petitioner : Mr.V.Paarthiban

For Respondents : Mr.K.Balasubramanian for R1
: Mr.R.Prathap Kumar
Addl. Public Prosecutor for R2

ORDER

[Order of the Court was made by M.M.SUNDRESH, J.]

The petitioner, claiming to be legally wedded wife of the first respondent, has come forward to file this Habeas Corpus Petition, seeking custody of the minor child born out of their relationship.

2.Today, when the matter is taken up for hearing, the first respondent is present along with the minor child. The learned counsel appearing for the first respondent has filed a detailed typed set. The learned counsel for the petitioner submitted that the petitioner is not available and she is at present in Dubai.

3.From the documents filed by the learned counsel appearing for the first respondent, it appears that an order has already been passed in G.W.O.P. No. 3063/2019 dated 22.04.2019 declaring the first respondent as the guardian and consequently the custody was also given to him. The child is also appeared to be with him for nearly two years. The petitioner filed an application seeking to set-aside the aforesaid order. An application for condonation of delay has been filed in that regard on 27.05.2019. The first respondent has also filed his counter affidavit. In the mean while, this petition has been filed on 01.02.2019.

4.The learned counsel appearing for the petitioner submitted that the allegations made by the first respondent need not be gone into in this proceedings. The question is only with respect to the custody of the child.

5.The learned counsel appearing for the first respondent submitted that the materials produced would clearly show that the petitioner was married on three earlier occasions, prior to the alleged marriage with the first respondent. She has also filed a petition for divorce as against the first respondent. There are evidence to show that the petitioner extracted money from one of the ex-husbands stating that the detinue was born out of her relationship with him. Now, she has also made a statement, which has been recorded, to another person, stating that she does not want to continue her relationship with him as she intends to marry yet another third party. Thus, considering the above, the petition will have to be dismissed.

6.We have made note of the aforesaid facts only in the light of the paramount interest of the child. The child appears to be very comfortable with the first respondent. The child is in his custody for nearly two years except three days time for which the petitioner was given the custody through the intervention of the police. The petitioner is also not available in the country. It appears that she is residing in Dubai and the order passed in G.W.O.P No. 3063/2019 stands against the petitioner as of now. Thus, looking from any perspective, we do not find any illegal detention involved in this case. Before parting, we would like to add that men are to be beware before

scrolling for matrimonial alliance on on-line.

7.In such view of the matter, the Habeas Corpus Petition stands dismissed.

Sd/-
Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

mmi/ssm

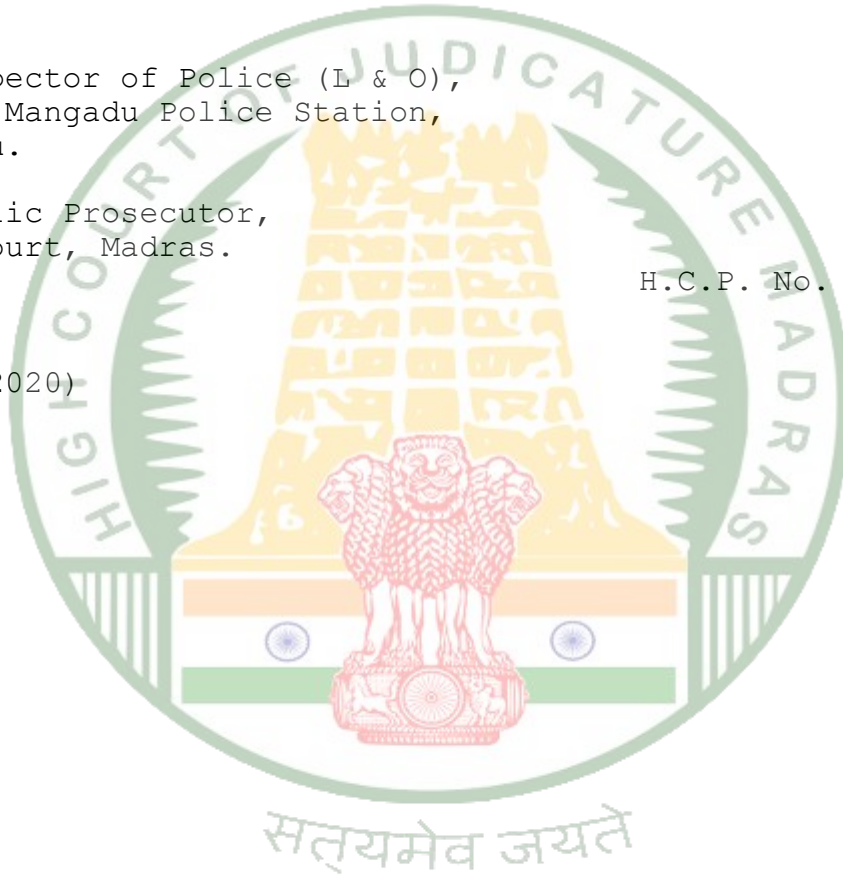
To

1.The Inspector of Police (L & O),
T - 14 Mangadu Police Station,
Mangadu.

2.The Public Prosecutor,
High Court, Madras.

H.C.P. No. 318 of 2019

BS (CO)
CB(02/01/2020)



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