

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.04.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN
and
THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

H.C.P.No.847/2019

P.Bhuvaneswari .. Petitioner

vs.

1.The Inspector of Police
All Women Police Station
Bhavani, Erode District.

2.G.Prakash .. Respondents

Prayer : Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of habeas corpus directing the respondents to produce the body of the petitioner's minor son namely Nihith, aged about 3 ½ years before this Court and to hand over him to the petitioner.

For Petitioner .. Mr.C.Vasudevan
For 1st Respondent .. Mr.C.Iyyappa Raj, APP

ORDER

(Order of the Court was made by M.SATHYANARAYANAN, J)

The petitioner is the biological mother of the minor detenu, viz., Nihith, aged about 3 ½ years and according to her, she got married to the 2nd respondent on 27.01.2014 and out of wedlock, the minor detenu was born. Subsequent to the birth of the minor detenu, there was a matrimonial discard and difference of opinion / misunderstanding arose between them and therefore, she was driven away from matrimonial home and at present, she is living with her parents right from November 2018. The grievance expressed by the petitioner is that though she happened to be the biological mother of the minor boy, aged about 3 ½ years, she has been totally denied access to see him and care about his well being and in this regard, she has also lodged a complaint dated 04.04.2019 on the file of the respondent police and since no proper action has been taken and that she is longing to see her minor child, she came forward to file the present petition.

2 The petition was entertained on 27.04.2019 and was

directed to be called on 11.06.2019. However, the learned Additional Public Prosecutor made a mention stating that the 2nd respondent along with the minor detenu are produced before this Court, and accordingly, the matter is taken up today.

3 The petitioner would state that she has been denied complete access to her minor child and if same thing continues, the minor child may not be able to recognize her as his mother and therefore, prays for appropriate orders to hand over his custody to her.

4 The 2nd respondent, who is present before this Court would state that he developed a suspicion as to the character and conduct of the petitioner and she on her own volition, left the matrimonial home and when this Court has put a specific query as to the right of the petitioner to see the minor detenu, as being the biological mother, the 2nd respondent would state that the petitioner is always free to visit her matrimonial home to see his son/minor detenu and the said statement is placed on record.

5 In the light of the submissions made and materials gathered from the statements of the petitioner as well as the 2nd respondent, this Court is of the considered view that it is always open to the petitioner to work out her remedy in accordance with law before the competent Forum as to the custody of her male child/detenu herein.

6 In the light of the undertaking given by the 2nd respondent / husband of the petitioner, the petitioner shall have a prior intimation to the 2nd respondent and thereafter, visit the child at the home of the 2nd respondent and both the petitioner as well as the 2nd respondent, taking into consideration, the well being and care of the child/minor detenu, shall not create any incident/problem during such visits.

7 The Habeas Corpus Petition stands disposed of accordingly.

s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

AP

To

1. The Inspector of Police
All Women Police Station
Bhavani, Erode District.

2.The Public Prosecutor,
Madras High Court, Madras.

+1 CC to Mr.I.C. Vasudevan, Advocate sr 42355.

H.C.P.No.847/2019

NMI (CO)
SP (31/05/2019)



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