

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.12.2019

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH
and
THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

H.C.P.No.986 of 2019

Dhanasekaran

... Petitioner

Vs

1. State rep.by
The Superintendent of Police
Namakkal District.

2. State rep.by
Inspector of Police
Mallasamudram Police Station
Namakkal District.

3. Lavanya

4. Gunasekaran@Ravi ... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus directing the second respondent herein to produce the body of the petitioner's minor daughter Mounika aged 8 years from the illegal custody of the third and fourth respondents before this Hon'ble Court and handover to the petitioner herein at once.

For Petitioner : M/s.C.S.Saravanan

For Respondents: Mr.R.Prathap Kumar
Additional Public Prosecutor
for R1 and R2
Mr.Venkatesh Mohanraj for R3 & R4

O R D E R

[Order of this Court was made by R.SUBBIAH, J]

Father of the detenu, namely, Mounika, aged 8 years, has filed a Writ of Habeas Corpus, directing the second respondent to produce the body of petitioner's minor daughter Mounika from the illegal custody of the third and fourth respondents.

2. The case of the petitioner is that his wife Lavanya/third respondent herein had developed a illegal intimacy with the fourth respondent herein and went with him on September 2017 along with his two children. Later he came to know that his wife and children are residing at Pannakinathur and his son Mouneeswaran had died. His wife without getting divorce from the petitioner, married the 4th respondent and through him she gave birth to a child. He has also lodged a complaint before the first respondent on 31.01.2019 to take action against the 3rd and 4th respondents regarding the death of his minor son Mouneeswaran. But no action was taken against them, till now. Since his minor daughter Mounika is in illegal custody of the third respondent, he has filed the present Habeas Corpus Petition.

3. Heard both side and perused the materials available on record.

4. Since the matter pertains to family dispute between husband and wife, this Court, on 17.06.2019 referred the matter to Mediation Centre, Namakkal and before the Mediation Centre, both parties expressed their unwillingness for mediation and thus the matter has been listed today. Considering the facts and circumstances of the case, we are of the view that since the minor daughter is in the custody of her mother/third respondent, it cannot be said that she is in illegal custody. Hence, we cannot direct the custody of the minor child to the petitioner. However liberty is granted to the petitioner to approach the appropriate forum, if so advised.

5. With the above observation, the Habeas Corpus Petition is closed.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

dpq
To

1. The Superintendent of Police, Namakkal District.
2. The Inspector of Police
Mallasamudram Police Station, Namakkal District.
3. The Mediation and conciliation Centre, Namakkal.
4. The Public Prosecutor, High Court, Madras.

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A.SK(28/01/2020)