

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.08.2019

Coram

The Hon'ble Mr. Justice M.M.SUNDRESH
and
The Hon'ble Mr. Justice M.NIRMAL KUMAR

H.C.P.No.1688 of 2019

N.Jothi .. Petitioner

Vs

1.The State represented by
The Inspector of Police,
Pollachi Town Police Station,
Coimbatore.

2.B.Narayanan .. Respondents

Petition filed under Article 226 of the Constitution of India praying for a writ of habeas corpus, directing the first respondent to produce the body of the petitioner's children Harshini aged about 9 years and Deetcha aged about 6 years from the illegal custody of the second respondent before this Court and handover to the petitioner.

For Petitioner .. Mr.Deepan Uday

For Respondents.. Mr.V.Saradha Devi
Government Advocate for R1
.. Mr.C.Prem kumar for R2

ORDER

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

The petitioner who is the mother of the detenues has filed this writ petition inter alia alleging that the second respondent, from whom the petitioner got divorce,

took the children without the consent of the petitioner when they were in the custody of their grandmother.

2.Today(26.08.2019), the petitioner, the petitioner's living partner, the second respondent and the minor children (the detenues) were present before this Court.

3.From the submissions, it appears that the petitioner got divorce from the second respondent thereafter living with a third party. The children were originally living with the petitioner. The petitioner sent the children to her mother's home for vacation holidays. The second respondent is said to have took the children with him without the knowledge of the petitioner as well as her mother.

4.Therefore, we decided to have the prolong discussion with all the parties. The first child Harshini is willing to go with her father, the second respondent and the second child Deetcha is willing to go with her mother, the petitioner. After such discussion, the following arrangements have been arrived at :

i)The children will be under the care and protection of the petitioner till they attain majority.

ii)The second respondent shall have the custody of the children in the second Saturday of every month at about 9 a.m., and thereafter bring them back to the petitioner's home on Sunday at about 7 pm.

iii)During the Pooja holidays and Christmas holidays, the second respondent shall have the custody of the children for about 3 days.

iv)During the summer holidays, the second respondent shall have the custody of the children for a period of two weeks.

5.This arrangement shall continue till the children attain majority. The parties are at liberty to file appropriate application before this Court seeking any modification or variation of the aforesaid order in the interest of the children.

6.Taking into consideration the facts and circumstances of this case and since the elder child expressed her willingness to be with the second respondent and the younger one wants to be with her mother, the petitioner, the elder one Harshini is at liberty to be with the second respondent till 30.08.2019. Thereafter, the second respondent shall handover the child to the petitioner on

31.08.2019. Further, liberty is granted to the parties to file appropriate application seeking modification or variations in the interest of the children.

7. Accordingly, this Habeas Corpus Petition is disposed of. No cost.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

pnn
To

1. The Inspector of Police,
Pollachi Town Police Station,
Coimbatore.

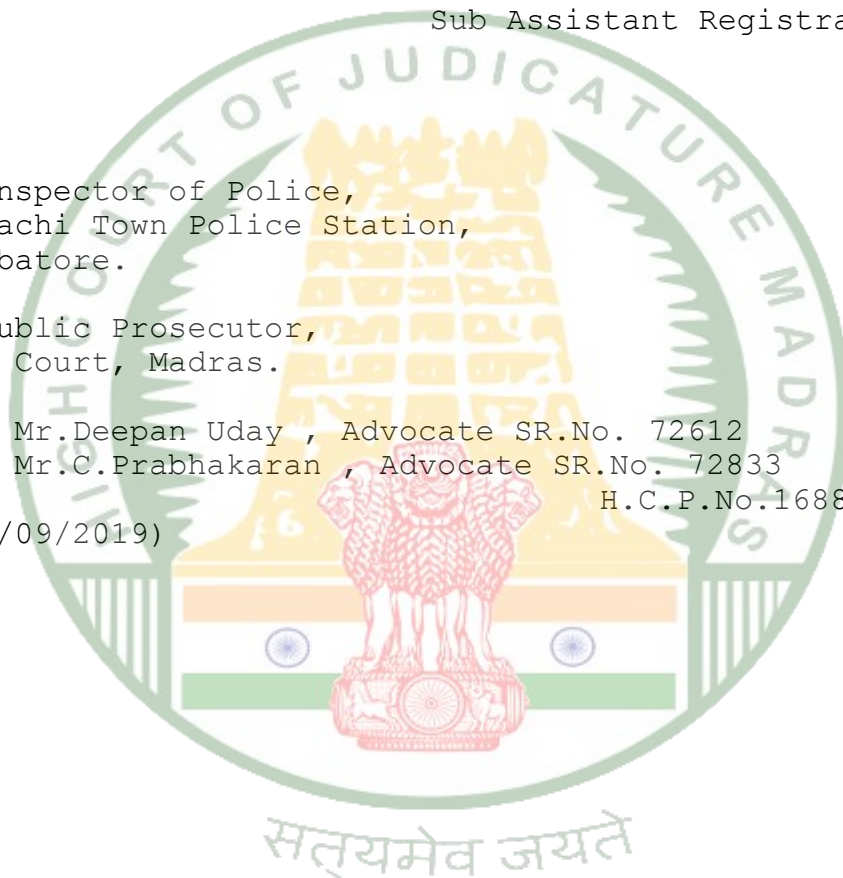
2. The Public Prosecutor,
High Court, Madras.

+1cc to Mr. Deepan Uday , Advocate SR.No. 72612

+1cc to Mr. C. Prabhakaran , Advocate SR.No. 72833

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A.SK(25/09/2019)



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