

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.10.2019

Coram

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

H.C.P. No. 2061 of 2019

R.Shanthi

... Petitioner

-vs-

1.The Commissioner of Police,
Coimbatore City,
Commissioner of Police Office,
Huzur Road, Uppilipalayam,
Coimbatore - 641 018.

2.State Rep. by
The Inspector of Police,
B12, Ukkadam Police Station,
Ukkadam, Coimbatore City.

3.Abdul Rahiman

... Respondents

Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus directing the second respondent secure the petitioner's minor son R.Srivineshkar, aged 4 years, who is in illegal detention by the third respondent and produce before this Court and hand over to the petitioner.

For Petitioner : Mr.A.Tamilarasan

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

ORDER

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

Seeking a direction to the second respondent to secure the petitioner's minor son R.Srivineshkar, aged 4 years, who is in illegal detention of the third respondent and produce before this Court and hand over to the petitioner, the present Habeas Corpus Petition has been filed.

2. The petitioner seeks the custody of her son from the third respondent on the premise that the child was handed over to one Kumar during the period of incarceration of her husband in the prison. The said Kumar has handed over the child to the third respondent four years ago.

3. The learned Additional Public Prosecutor based upon the status report and the documents filed would submit that the petitioner and her husband voluntarily handed over the child in favour of the third respondent while executing the deed of adoption though not registered but notarized dated 21.11.2014. They have also received a sum of Rs.1,50,000/- for the same. Therefore, there is no illegal custody involved, particularly when the child is with the third respondent for nearly five years.

4. The admitted fact is that the child is with the third respondent from 21.11.2014 onwards. Though we are not inclined to go into the documents produced by the learned Additional Public Prosecutor along with the admissibility, relevancy and proof, the fact remains that the child has been with the third respondent for nearly five years - from 21.11.2014 onwards. The child was parted away by the petitioner and her husband when it was one month old.

5. This Court will have to act as parens patriae insofar as the welfare of the child is concerned. It would not be in the interest of the child to handover the custody of the child to the petitioner at this stage. Prima facie, it also appears that the third respondent is in a better position to take care of the interest of the child than the petitioner.

6. In such view of the matter, we do not find any illegal detention involved in this case and the Habeas Corpus Petition stands closed. However, these observations being only prima facie, the petitioner can work out the remedy before the jurisdictional Court, if so advised.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.The Commissioner of Police,
Coimbatore City,
Commissioner of Police Office,
Huzur Road, Uppilipalayam,
Coimbatore - 641 018.

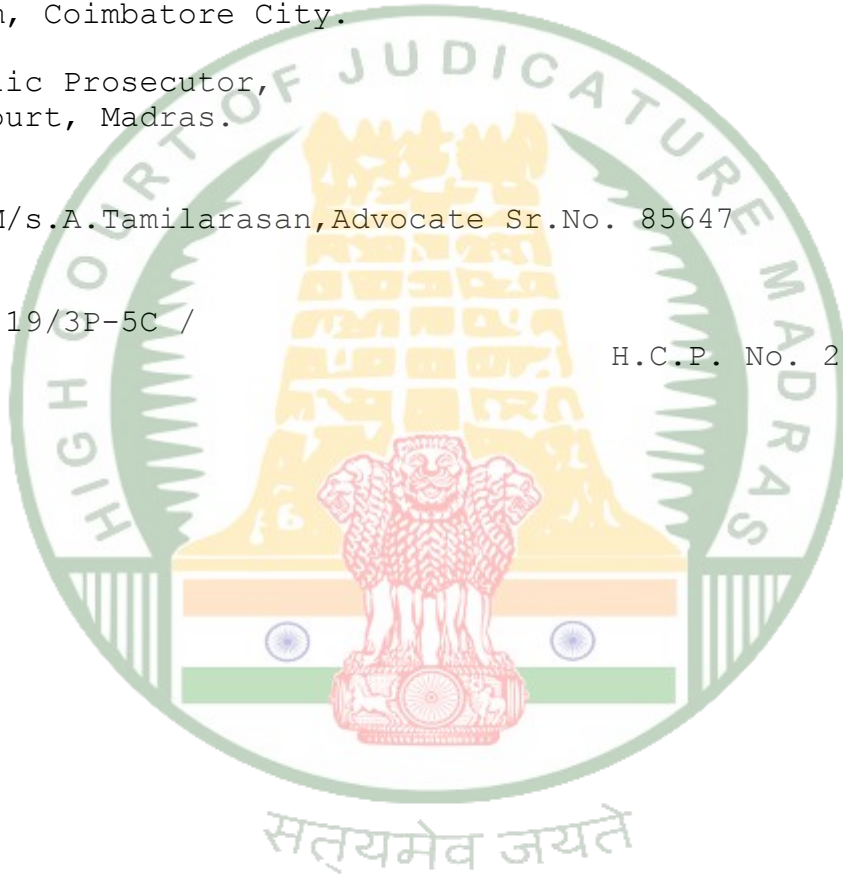
2.The Inspector of Police,
B12, Ukkadam Police Station,
Ukkadam, Coimbatore City.

3.The Public Prosecutor,
High Court, Madras.

+1 cc to M/s.A.Tamilarasan,Advocate Sr.No. 85647

AKM/29.11.19/3P-5C /

H.C.P. No. 2061 of 2019



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