

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.11.2019

CORAM:

The Honourable Mr. Justice M.M.SUNDRESH
and
The Honourable Mr. Justice RMT.TEEKAA RAMAN

Habeas Corpus Petition No.2437 of 2019

M.Karuppasamy

... Petitioner

vs.

1. The Inspector of Police,
Mahalingapuram Police Station,
Pollachi, Coimbatore District.

2. K.Kuppuswamy

3. K.Shanmugapriya

... Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Habeas Corpus, directing the 1st Respondent to produce the body and person of the Petitioner's minor son by name K.Kavin, aged one year and five months, before this Court, who is in the custody of the second and third Respondents at No.4/148, Kuruengeri, Kanchampatti Post, Pollachi, Coimbatore District and hand over custody to the Petitioner.

For Petitioner : Mr.C.D.Sugumar

For 1st Respondent : Mr.R.Prathap Kumar,
Additional Public
Prosecutor

For Respondents 2 & 3 : Mr.V.Ravi

ORDER

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

The Petitioner is the father of the minor detenu viz. K.Kavin, aged about 1 1/2 years.

2. It is the case of the Petitioner that the minor child was handed over to his employer, to be taken care of, in view of the ill-health of his wife. The Petitioner's wife died on 20.07.2019. Thereafter, the Petitioner sought for return of the

child. He came to know that his employer has clandestinely sold the minor detenu in favour of Respondents 2 and 3.

3. Learned Additional Public Prosecutor, on instructions, submitted that the minor detenu was handed over by the Petitioner himself to the Respondents 2 and 3, on 02.06.2018. Thereafter, the Petitioner has come forward with this Writ Petition on 04.11.2019, pursuant to the complaint given on 15.10.2019.

4. Mr.V.Ravi, learned counsel appearing for Respondents 2 and 3 submitted that, the statement made by the Additional Public Prosecutor, is correct.

5. By view of adoption, the child was handed over to the Respondents 2 and 3 by the Petitioner and his wife. Now, by changing his mind, the Petitioner seeks the child. For about 1 ½ years, the child has been brought up by Respondents 2 and 3 and they have also filed a Suit in O.S.No.302 of 2019 before the District Munsif Court, Pollachi.

6. We are concerned with the paramount interest of the child. Therefore, we are not inclined to go into the factual settings as well as the legal issues, as to whether there is a valid adoption in the eye of law. Suffice it is to state that, the minor detenu was parted with by the Petitioner and his wife on 02.06.2018. For nearly 1 ½ years, the child has been taken care of, by Respondents 2 and 3.

7. In such view of the matter, we do not find any illegal custody involved in this case, as the interest of the minor detenu is being taken care of by Respondents 2 and 3. Recording the same, this Habeas Corpus Petition is closed.

8. However, we make it clear that the observations made, being prima facie in nature, will not have any bearing on the pending Suit. Also, the Petitioner is at liberty to initiate such action, as he deems fit.

Sd/-
Assistant Registrar(CCC)

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Sub Assistant Registrar

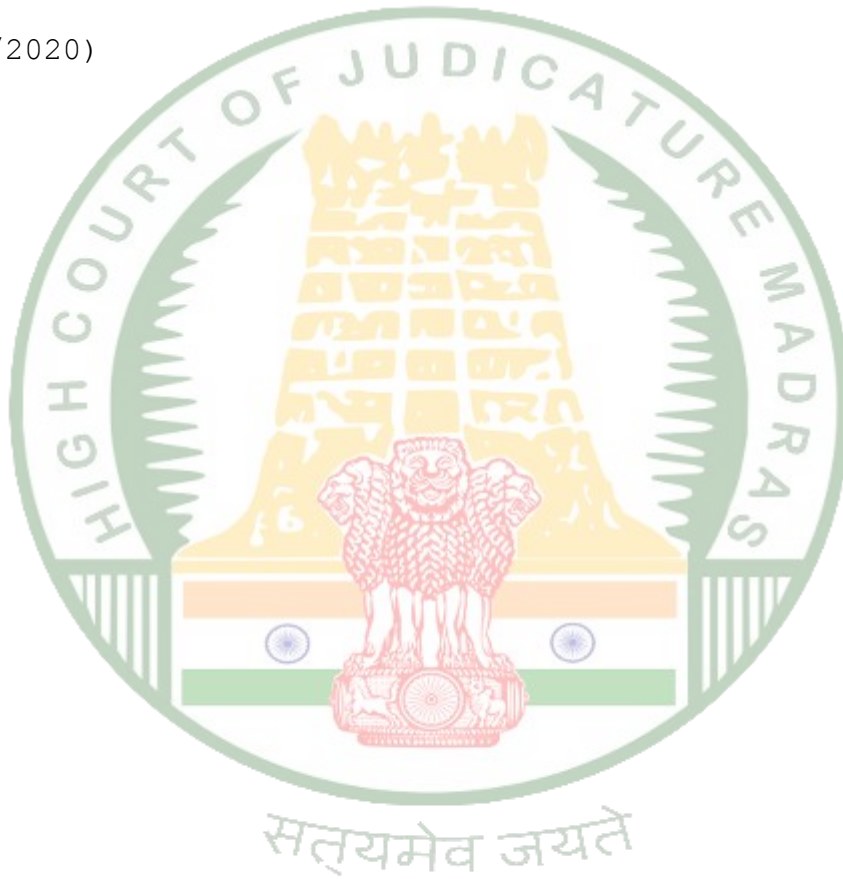
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To:

1. The Inspector of Police,
Mahalingapuram Police Station,
Pollachi, Coimbatore District.
2. The Public Prosecutor,
High Court, Madras.

H.C.P.No.2437 of 2019

EV(CO)
GMY(02/01/2020)



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