

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.2580 of 2019

A.Dinesh

... Petitioner

Vs

1.The State rep.by
The Superintendent of Police,
Thiruvallur, Thiruvallur District.

2. The Inspector of Police,
E-5, Sholavaram Police Station,
Chennai 600 087.

3. Rukkiya

4. Mariyam Kutty ... Respondents
(RR3&4 are impleaded as per order in
CRL MP.NO.17489/19 IN HCP.25//19 DATED 26.11.2019)

Habeas Corpus Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus directing the second respondent to produce the petitioner's minor children (i) D.Rohit aged about 10 years (ii) D.Monish aged about 8 years and my wife Namely D.Banupriya aged about 29 years before this Hon'ble Court and set them liberty.

For Petitioner : M/s.M.Thirumalai

For Respondents: Mr.R.Prathap Kumar
Additional Public Prosecutor
for R1 and R2

O R D E R

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

Father/husband of the detenu, namely, D.Rohit, aged 10 years, D.Monish, aged 8 years and D.Banupriya aged 29 years has filed a Writ of Habeas Corpus, directing the second respondent to produce the petitioner's children and wife before this Hon'ble Court and set them liberty.

2. It is stated that the marriage between the petitioner and his wife D.Banupriya was solemnized as per Hindu religious custom and rites. Out of their wedlock they were blessed with two male children. On 19.07.2019 the petitioner found that his children and wife were missing and on 11.09.2019 he gave a complaint to the second respondent. Again on 06.10.2019 gave a complaint to the second respondent and CSR No.937 of 2019 was issued but the second respondent did not take any action. The petitioner has stated in the affidavit that his children and wife are under illegal custody of some antisocial elements and hence the present Habeas Corpus Petition.

3. The learned Additional Public Prosecutor appearing for the respondents 1 and 2 submitted that there was some family dispute between the petitioner and the wife/D.Banupriya, hence she left the matrimonial home and went to her mother's house. The minor children and wife of the petitioner are in his mother-in-law's house.

4. Recording the submission made by the learned Additional Public Prosecutor, admittedly, the fourth respondent is the grandmother of the children and mother of Banupriya and they are with her and in such circumstances, the custody of the children and wife, cannot be said to be illegal. Therefore, we do not find any reason to issue any direction as prayed for by the petitioner. However, it is open to the petitioner to work out his remedy before the appropriate forum, in the manner known to law.

5. With the above observation, the Habeas Corpus Petition is disposed of.

Sd/-

Assistant Registrar(CS)

//True Copy//

सत्यमेव जयते
Sub Assistant Registrar

dpq

To

1. The Superintendent of Police,
Thiruvallur, Thiruvallur District.

2. The Inspector of Police,
E-5, Sholavaram Police Station,
Chennai 600 087.

3. The Public Prosecutor, High Court, Madras.

+1cc to Mr.M.Thirumalai , Advocate SR.No. 102706

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