



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.03.2019

CORAM:

THE HONOURABLE MR. JUSTICE P.N.PRAKASH
AND
THE HONOURABLE MR. JUSTICE B.PUGALENDHI

H.C.P. (MD) No.1495 of 2018

Venkatasamy

: Petitioner

Vs.

1. The Superintendent of Police,
Thoothukudi District,
Thoothukudi.
2. The Inspector of Police,
Arumuganeri Police Station,
Thoothukudi District.
3. The Inspector of Police,
All Women Police Station,
Tiruchendur,
Thoothukudi District.
4. Sumathi
5. Jeyaraj
6. Roja

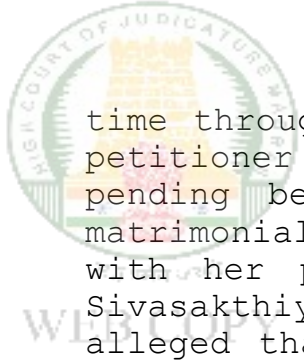
: Respondents

PRAYER: Petition is filed under Article 226 of the Constitution of India praying for the issue of a Writ of Habeas Corpus, to direct the respondents herein to produce the body or person of the petitioner's daughter Sivasakthiya, D/o.Venkatasamy aged about three years and son namely, Sivaprabha, S/o.Venkatasamy aged about one and half years before this Court and hand over them over to the custody of the petitioner.

For Petitioner : Mr.V.Malaiyendran
For Respondents : Mr.R.Anandaraj for R1 to R3
Additional Public Prosecutor
Mr.S.M.Mohan Gandhi for R4 to R6

ORDER**B. PUGALENDHI, J**

<https://hcservices.ecourts.gov.in/hcservices/> It is the case of the petitioner that Sumathi, the fourth respondent herein, is his wife and through her, he has a daughter by name, Sivasakthiya. Admittedly, Sumathi conceived for the second



time through the petitioner. While she was in the family way, the petitioner and Sumathi got estranged and matrimonial proceedings are pending between them. After the estrangement, Sumathi left her matrimonial home and went to her parental home and started living with her parents. She had taken with her the eldest daughter Sivasakthiya. In this Habeas Corpus Petition, the petitioner has alleged that Sumathi delivered a male child on 04.08.2017 and has sold the child to someone and thereafter, she married one Jeyaraj, the fifth respondent herein. Therefore, this Habeas Corpus Petition has been filed for causing production of Sivasakthiya and the new born child.

2. On notice, Sumathi entered appearance and stated that the new born child died on 06.08.2017, ie., within three days of birth at the Government Hospital, Tiruchendur and the body was buried. Thereafter, Sumathi got married to Jeyaraj. She has denied the allegation that she has sold the second child. On our directions, the place, where the body was buried was exhumed by the Tahsildar and the Inspector of Police and the bones have been sent for DNA profiling. In such view of the matter, we do not find any illegal detention of Sivasakthiya or the sale of new born as alleged by the petitioner.

3. In the result, the Habeas Corpus Petition stands dismissed.

Sd/-

Assistant Registrar (Crl.side)

/True Copy/

Sub Assistant Registrar

To

1. The Superintendent of Police,
Thoothukudi District,
Thoothukudi.
2. The Inspector of Police,
Arumuganeri Police Station,
Thoothukudi District.
3. The Inspector of Police,
All Women Police Station,
Tiruchendur,
Thoothukudi District.
4. The Additional Public Prosecutor
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.S.M.MOHAN GANDHI, Advocate (SR-52923[F] dated 11/03/2019)

RR

TE : 26/03/2019 : 2P/6C