



BEFORE THE MADURAI BENCH OF THE MADRAS HIGH COURT

DATE : 19.06.2019

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR. JUSTICE B.PUGALENDHI

H.C.P. (MD) NO. 528 OF 2019

Jeyachitra

.. Petitioner

- Vs -

1. The Superintendent of Police
Madurai District, Madurai.

2. The Inspector of Police
All Women Police Station
Melur, Madurai District.

3. Palaniyandi

4. Senthamarai

.. Respondents

PRAYER:

Petition filed under Article 226 of the Constitution of India praying this Court for the issuance of a writ of habeas corpus directing respondents 1 and 2 to produce the body or corpus of the detenu, viz., Minor son Thasvin (Age 8) and Minor daughter Harini (Age 5) before this Hon'ble Court, who are under the illegal custody of respondents 3 and 4 and set them at liberty.

For Petitioner : Mr.P.M.Vishnuvarathanan

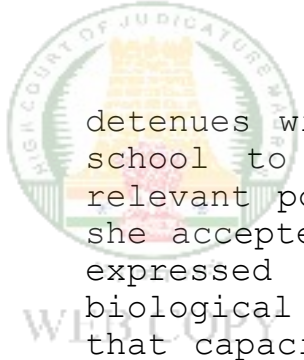
For Respondents : Mr.K.Dinesh Babu, APP for RR-1 & 2

ORDER

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

The petitioner is the mother of the two minor detenues, viz., Minor Thasvin, aged 8 years and Minor Harini, aged 5 years and according to the petitioner, she got married to one Hariharasudhan, son of respondents 3 and 4 and that it was a love marriage and out of the wedlock, two children were born. It is also stated by the petitioner that subsequently, her husband committed suicide and, thereafter, she had the custody of her two children and they were studying in P.N. Matriculation School at Kadachanendal.

2. It is also averred by the petitioner that her father-in-law and mother-in-law, viz., respondents 3 and 4 had approached her during the month of April, 2018 for having custody of the minor



detenues with a promise that they will give education in a better school to the minor detenues and since the petitioner, at the relevant point of time, was employed at Tirupur on contract basis, she accepted for the said temporary arrangement. The grievance now expressed by the petitioner is that she, despite being the biological mother, she is denied access to see her children and in that capacity also she is entitled for the custody of the children and the complaint in this regard given to the 2nd respondent failed to evoke any kind of response and, hence, came forward to file this petition.

3. Learned counsel appearing for the petitioner submits that it is well settled legal position that the petitioner, being the mother of the minor detenues, she is entitled to have custody of her children and further pointed out that while the children were in the custody of the petitioner, they were given education in an English Medium school, but, however, after the private respondents took them into their custody, they have been denied good education and, hence, prays for appropriate orders.

4. Today, Mr.K.Dinesh Babu, learned Addl. Public Prosecutor, appearing for respondents 1 and 2 submits that based on the complaint given by the petitioner, CSR No.563/19 is assigned and enquiry is on and also produced the detenues along with respondents 3 and 4 before the Court.

5. The petitioner, who is present was enquired and she stated that under false pretext of giving better education, the custody of her children was taken away and she is desperate to have them back and also pointed out that despite repeated approach made, her right to see the children has been unjustly denied by respondents 3 and 4.

6. Respondents 3 and 4, along with the children/detenues, were enquired by this Court and they stated that the custody of the children had been voluntarily handed over by the petitioner to them and they are also providing good and decent education to the detenues and that they are maintaining the children well.

7. The minor detenues, who were also present stated that they are not inclined to go with their mother/petitioner. However, this Court is not inclined to take into consideration the statement of the minor detenues for the reason that they are with the paternal grandparents for nearly one year and it is only the child Psychology expert, who could find out the nature of reaction of the minor detenues.

8. However, taking into consideration the fact that the minor detenues were with the paternal grandparents even as per the own admission of the petitioner for nearly one year and odd, separating them from their custody and handing them over to the petitioner may create a psychological scare and problem for the minor children and, therefore, this Court is not inclined to order handing over the



minor detenues from the custody of respondents 3 and 4 to the petitioner for the present.

9. However, it is an undenying fact that the petitioner is the biological mother of the minor detenues and, therefore, she is entitled to have visitation rights at regular intervals to see the children and also to find out how they are being brought up.

10. In the above facts and circumstances, this habeas corpus petition is disposed of retaining the custody of the minor detenues with respondents 3 and 4 and the petitioner is at liberty to work out her remedy before the competent court as to custody of her children/minor detenues. However, respondents 3 and 4 are directed to produce the two detenues at Rajaji Park, Opposite Gandhi Museum, Madurai between 11.00 a.m. and 2.00 p.m. on the 3rd and 4th Sunday of every month until further orders so that the petitioner can see and interact with her children/detenues at that time.

11. Since the welfare and interest of the minor children is involved, the petitioner as well as respondents 3 and 4 shall be alive to the said situation and they shall make every endeavour to create a congenial atmosphere during the meeting of the petitioner and the minor children so that the psychology of the minor detenues is not affected.

12. It is also open to the petitioner as well as respondents 3 and 4 to approach this Court for modification of this order as to visitation rights in case necessity arises.

Sd/-

Assistant Registrar (AD-I)

/ True Copy /

Sub Assistant Registrar (CS-)

GLN

To

1. The Superintendent of Police
Madurai District, Madurai.

2. The Inspector of Police
All Women Police Station, Melur, Madurai District.

3. The Addl. Public Prosecutor
Madurai Bench of Madras High Court, Madurai.

+1CC to Mr.P.M.VISHNUVARTHANAN, Advocate (SR-70324[F] dated 21/06/2019)