



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.01.2019

CORAM:

THE HON'BLE Mr. JUSTICE R.SUBBIAH

AND

THE HON'BLE Mr. JUSTICE B.PUGALENDHI

H.C.P. (MD) No.1038 of 2018

Dhaya Rani

... Petitioner

Vs.

1.The Superintendent of Police,
Kanyakumari District,
At Nagercoil.

2.The Inspector of Police,
Kulasekharam Police Station,
Kanyakumari District.

3.Iyyapillai

4.Stalin

5.The Child Welfare Committee,
Rep.by Mary Paneer Selvam,
VI Floor, Collectorate,
Nagercoil,
Kanyakumari District.

(R5 is impleaded as per order dated 27.07.2018)

... Respondents

PRAYER: The petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, directing the respondents to produce the person or body of the detainee viz., Rithika daughter of Stalin, aged about 2 1/2 years before this Court and set her in liberty.

For Petitioner

: Mr.S.C.Herold Singh

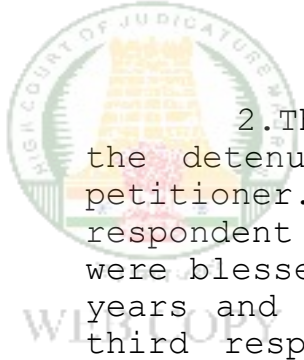
For Respondents

: Mr.K.Dinesh Babu, APP for R1 and R2
Mr.T.Vilavankothai for R3 and R4

ORDER

(Order of the Court was made by **R.SUBBIAH, J.**)

<https://hcservices.ecourts.gov.in/hcservices/> This Habeas Corpus petition has been filed to handover the custody of the detainee viz., Rithika, aged about 2 1/2 to the petitioner.



2. The petitioner and the fourth respondent are the parents of the detainee. The third respondent is the father-in-law of the petitioner. The marriage between the petitioner and the fourth respondent took place on 30.01.2012. Out of their wedlock, they were blessed with two female children, namely, Atchara, aged about 4 years and Rithika, aged about 2 1/2 years. On instigation of the third respondent, the fourth respondent - husband, tortured the petitioner by demanding additional dowry. Due to which, the fourth respondent stopped from coming home. While so, on 29.05.2018, when the detainee viz., Rithika was playing in front of the house, the respondents 3 and 4 have taken away her. On coming to know the said fact, the petitioner has gone to the house of the third respondent and asked him to hand over the child. However, the respondents 3 and 4 have threatened, abused and also attacked the petitioner. Due to which, the petitioner sustained injuries and that she took treatment in Government Hospital, Vettuvanni. Hence, on 29.05.2018, the petitioner has preferred a complaint to secure the detainee from the respondents 3 and 4. Since no action has been taken so far, the petitioner is before this Court with the present Habeas Corpus petition.

3. Today when the matter is taken up for hearing, the detainee along with her father appeared before this Court. When we enquired the father of the detainee, he stated that the petitioner has not properly taken care of the child and hence, he took the child under his custody. However, the same was denied by the petitioner.

4. Be that as it may, we are of the opinion that as the child is 2 1/2 years old, the custody of the child should be with the mother. Therefore, we direct the 4th respondent to hand over the custody of the child to the petitioner. Accordingly, the custody of the detainee was handed over to the petitioner. As the detainee was handed over to the petitioner, nothing survives for adjudication further in this Habeas Corpus petition. Hence, this Habeas Corpus petition is closed.

Sd/-

Assistant Registrar (CO)

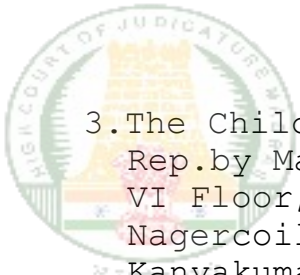
/True Copy/

Sub Assistant Registrar

To

1. The Superintendent of Police,
Kanyakumari District,
At Nagercoil.

2. The Inspector of Police,
Kulasekharam Police Station,
Kanyakumari District.



3.The Child Welfare Committee,
Rep.by Mary Paneer Selvam,
VI Floor, Collectorate,
Nagercoil,
Kanyakumari District.

WEB COPY

+1CC TO Mr.S.C.Herold Singh, Advocate, SR No.42356

H.C.P.(MD)No.1038 of 2018
23.01.2019

nbg
SP/BK/SAR-4/27.02.2019/3P.5C