



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.07.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN
and
THE HONOURABLE MR.JUSTICE B.PUGALENDHI

H.C.P(MD)No.656 of 2019

Kumariah Thevar

... Petitioner

Vs.

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

2.The Inspector of Police,
Peraiyur Police Station,
Peraiyur, Ramnad District.

... Respondents

Prayer: Habeas Corpus Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Habeas Corpus, directing the Respondent No.1 and 2 to produce the body of the detainee/petitioner grand daughter namely Minor Vinoshika, aged about 4 ½ years before this Hon'ble Court and handover in the custody to the petitioner.

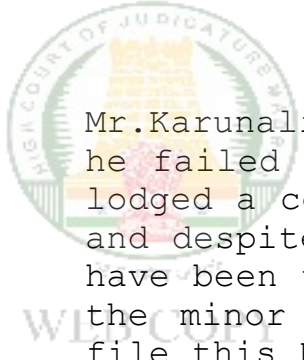
For Petitioner : Mr.S.J.Chakkaravarthy

For Respondents 1 & 2 : Mr.K.Dinesh Babu
Additional Public Prosecutor

O R D E R

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

The petitioner is the maternal grandfather of the minor detainee viz. Vinoshika, aged about 4 ½ years. According to the petitioner, his third daughter viz., Kavitha was given in marriage to one Karunalingam on 08.09.2013 and out of the wedlock the minor detainee was born and subsequently, she died on 31.12.2017. It is the specific case of the petitioner that on his daughter's death he and his wife were taking care of the minor detainee and she was also happily living with him. On 24.06.2019, his son-in-law viz., Karunalingam and his sister viz., Vilvarani came to his house for the purpose of seeing the detainee and requested him to take her along with them for short stay and believing their representation the custody of the minor detainee was handed over to



Mr.Karunalingam. However, contrary to the promise and undertaking, he failed to return the child. In this regard, the petitioner has lodged a complaint with the second respondent police on 04.07.2019 and despite receipt and acknowledgement of the complaint, no steps have been taken by the second respondent to restore the custody of the minor detainee to the petitioner. Hence, he came forward to file this Habeas Corpus Petition.

2.The learned counsel appearing for the petitioner on instructions would submit that the son-in-law of the petitioner viz., Karunalingam is taking efforts to get married once again and in that event the minor detainee, who is aged about 4 ½ years, will be left in lurch and Karunalingam is employed in a canteen at Namakkal and on account of his working there he may not be able to give bestow attention to the care and welfare of the detainee and therefore, prays for restoration of the custody of the minor detainee to the petitioner.

3.Mr.K.Dinesh Babu, learned Additional Public Prosecutor appearing for the respondents on instructions would submit that since the matter pertains to the custody of minor detainee between the maternal grandparents and the biological father, enquiry was caused.

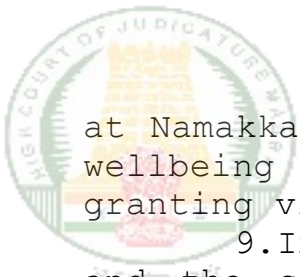
4.The petitioner is present along with his wife, so also his son-in-law viz., Karunalingam along with the minor detainee and they were enquired.

5.The father of the detainee viz., Karunalingam would state that the minor child continued to be under his custody at Namakkal and to take care of her wellbeing his mother and sister would be with him at Namakkal and he has no objection for granting visiting rights to the maternal grandparents of the minor detainee. The petitioner as well as his wife/father-in-law and mother-in-law of Karunalingam would submit that since his son-in-law is taking steps for getting married for the second time, they are having a genuine apprehension that the interest and welfare of the minor detainee would not be taken care of and since she happens to be a girl of tender age, they would be in a better position to take care of her wellbeing.

6.The learned Additional Public Prosecutor on instructions would submit that there is no complaint received by the second respondent.

7.This Court considered the rival submissions and also perused the materials placed before it.

8.Admittedly, the son-in-law of the petitioner is the biological father of the detainee and it prima-facie appears that <https://hcservicescourts.co.in/tcse/hcs/> does not suffer any disqualification for getting his daughter's custody and he has also made a submission before this Court that his mother and sister are going to stay with him



at Namakkal and they would take care of the interest, welfare and wellbeing of the minor detainee and he has no objection for granting visiting rights to his maternal grandparents.

9. In the result, this Habeas Corpus Petition is disposed of and the son-in-law of the petitioner is permitted to have the custody of the minor detainee, as he does not suffer any disqualification as on today and he shall permit his father-in-law and mother-in-law to visit the minor detainee and bring the minor detainee to Muniyankulam, Mudukulathur Taluk, Ramnad District on the second and fourth Saturday of every English Calendar month so as to enable the maternal grandparents of the minor detainee to see and interact with the detainee between 10.00 a.m. to 5.00 p.m. until further orders. If it is available under law, the petitioner is also at liberty to workout his remedy, in accordance with law before the competent forum.

Sd/-

Assistant Registrar (Records)

// True Copy //

Sub Assistant Registrar (CS)

To

1. The Superintendent of Police,
Ramnad District, Ramnad.
2. The Inspector of Police,
Peraiyur Police Station,
Peraiyur, Ramnad District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

Copy to:

Mr. V. Karnalingam,
2/107, Kallikulam,
Peraiyur Post, Kamuthi Taluk,
Ramanathapuram District.

+1 CC to Mr. S. J. CHAKKKARAVARTHY, Advocate (SR-76450[F] dated 19/07/2019)

H.C.P (MD) No. 656 of 2019

19.07.2019

sj