



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **22.10.2019**

CORAM

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

AND

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

H.C.P(MD)No.1118 of 2019

WEB COPY

Reegan

...Petitioner

Vs.

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

2.The Inspector of Police,
Marthandam All women Police Station,
Kanyakumari District.

3.Vimala,

4.Jeba Kiruba

....Respondents

PRAYER: This Habeas Corpus Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Habeas Corpus, directing the respondents 1 and 2 to produce the person or body of the detenu Ariya Rijowin Reegan, aged 6 years and Akshaya Rijeshwin, aged 3 years before this Court and set them at liberty.

For Petitioner

:Mr.S.C.Herold Singh

For Respondents
1 and 2

: Mr.K.Dinesh Babu
Addl.Public Prosecutor.

For Respondents
3 and 4

:Ms.M.Maria Vinola

O R D E R

This Habeas Corpus Petition has been filed by the father of the detenu.

2.The Petitioner and the fourth respondent loved each other and married and out of the said wedlock, there are two children, who are aged about 6 years and 3 years respectively. There seems to be some marital discord between the parties, as a result of which, the fourth respondent has got separated from the Petitioner and had taken both the children.

3.The learned counsel for the Petitioner submitted that the fourth respondent has left the children under the custody of the third respondent, who is said to be the sister of the fourth respondent and therefore the interest of the minor children will have to be safeguarded by permitting the Petitioner to take over



the custody of the children.

4.Per contra, the learned Additional Public Prosecutor appearing on behalf of the respondents 1 and 2/Police submitted that on the complaint given by the Petitioner, an enquiry was conducted by the Children Welfare Committee, Kanyakumari and it was found that there was a marital dispute between the Petitioner and fourth respondent and that the fourth respondent has gone abroad for work and children are now being taken care by the parents of the fourth respondent and also her sister.

5.Ms.M.Maria Vinola, learned counsel appearing on behalf of the respondents 3 and 4 submitted that the fourth respondent was forced to go for work in order to financially support the children and therefore she is doing household work at Dubai. The children are now being taken care of by the parents of the fourth respondent and the third respondent is none other than the sister of the fourth respondent. The learned counsel further submitted that the dispute of this nature cannot be brought before this Court in exercise of its Habeas Corpus jurisdiction and the same has to be agitated only before the competent Court by filing appropriate petition.

6.This Court has carefully considered the submissions made on either side and perused the materials placed before this Court.

7.The nature of dispute that has been brought to the notice of this Court is to be agitated only before the appropriate Court by filing Guardian O.P Petition. The children even though are under the control of the fourth respondent, who is the mother, she is taking care of those children through her parents. The custody of the children with the parents of the fourth respondent cannot be called as an illegal custody. The rights of the parties and also the welfare of the children can be properly adjudicated only by the competent Court and this Court does not want to usurp this power in this Habeas Corpus Petition.

8.In the result, the Habeas Corpus Petition is dismissed and it is left open to the parties to work out their remedy before the Competent Court, in the manner known to law.

Sd/-

Assistant Registrar (AS)

// True Copy //

Sub Assistant Registrar (CS)



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

2.The Inspector of Police,
Marthandam All women Police Station,
Kanyakumari District.

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

+1 CC to M/s.S.C.HEROLD SINGH, Advocate (SR-93829[F] dated
23/10/2019)

ORDER MADE IN
H.C.P (MD) No.1118 of 2019
22.10.2019

KM/ (05.11.2019) 3P 5C