

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.08.2020

CORAM :

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN
AND
THE HONOURABLE MS.JUSTICE V.M.VELUMANI

H.C.P. No. 1234 of 2020

S.Revathi, (F/39),
W/o.Shiva Vetrivel,
No.2/96, Kaviarasu Kannadasan Nagar,
Chennai - 600 118. Petitioner / Mother of
Ashmitha

Vs

- 1.The Commissioner of Police,
Commissioner Office Building,
No.132, EVK Sampath Road, Vepery,
Periyamet, Chennai - 600 007.
- 2.The Inspector of Police,
P-5, All Women Police Station,
M.K.B.Nagar, Vyasarpadi,
Chennai - 600 118.
- 3.Shiva Vetrivel,
Building No.E-3, Room No.25, BMC Building,
Ravali Camp, Antop Hill,
Mumbai - 400 022. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Habeas Corpus, directing the Respondent to produce the body or person of Petitioner's 7 years old minor girl child, Ms.S.Ashmitha, from the illegal custody of Shiva Vetrivel and set her at liberty to prevent the child from being molested and giving up her life.

For Petitioner : Mr. A. Rajamohamed

For Respondents: Mrs. M. Prabhavathi,
(Additional Public Prosecutor)

O R D E R

(Order of the court was made by N.KIRUBAKARAN,J.)

The matter is heard through "Video Conferencing".

2. The petitioner/mother has filed this petition seeking Writ of Habeas Corpus, stating that her minor daughter viz., Ms.S.Ashmitha, aged 7 years is in illegal custody of the petitioner's husband, the 3rd respondent, who is in Mumbai.

3. When the matter is called today, Mr.Prasanth Raje, Senior Inspector of Police, Antop Hill Police Station, Mumbai is present through Video Conference. He has made arrangements for appearance of the petitioner, 3rd respondent as well as the child which has been admitted in Shradhand Ashram, Matunga. Since there is a dispute between the petitioner and the 3rd respondent, the petitioner seems to have been separated from her matrimonial home at Mumbai and came back to Chennai. At that time, the 3rd respondent did not permit the petitioner to take the child with her. Thereafter, the petitioner made an attempt to take the child when the 3rd respondent was not in house, as the child telephoned her that she wanted to join the petitioner. Based on a Police complaint by the 3rd respondent, the petitioner who was about to leave Mumbai was taken into custody by the Police and on verification, it was found that the petitioner is the mother of the child. Since claim and counter claim with regard to custody of the child was made by the petitioner as well as the 3rd respondent, the Police informed the Child Welfare Committee and after enquiry, the Child Welfare Committee admitted the child in the Home. The matter has been taken cognizance by the Child Welfare Board and the same was adjourned to 17.08.2020.

4. During interaction with the child through video conferencing, it was revealed that the child wish to be with her mother, however she has not made any allegations against her father. Because of the quarrel between the petitioner /wife and the 3rd respondent/ husband, the innocent child has been made as victim and she is passed between the petitioner, 3rd respondent, Police Station and the Child Welfare Board like a ball, which should have been avoided by the petitioner and the 3rd respondent. In the process, the child's psychology is likely to

be affected. It was a second marriage for both the petitioner as well as the 3rd respondent, as their first marriage failed. The petitioner is already having a child through the first marriage. The minor Ms.S.Ashmitha was born from the present wedlock. When that is the background of the case, when they had a bitter experience due to the failure of the first marriage respectively, they should have been cautious enough to see that no problem arises in the second marriage. However, there is problem between the petitioner and the 3rd respondent, which has to be sorted out in the interest of the child.

5. Since the competent Child Welfare Board has already taken cognizance of the matter with regard to custody of minor child, as claims and counter claims have been made by the petitioner and 3rd respondent, it may not be possible for this Court to pass a parallel order through this petition. Hence, the Habeas Corpus Petition is closed.

6. The Mr.Prasanth Raje, Senior Inspector of Police, Antop Hill Police Station, Mumbai has taken all earnest efforts to see that the child and the parents are available through Video Conference and he has also assured that the arrangements would be made to the petitioner for her stay in Mumbai as she is new to the City, till the competent Child Welfare Board decides the issue. The efforts of the Officer needs to be appreciated. Accordingly, the same is recorded.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1.The Commissioner of Police,
Commissioner Office Building,
No.132, EVK Sampath Road, Vepery,
Periyamet, Chennai - 600 007.

2.The Inspector of Police,
P-5, All Women Police Station,
M.K.B.Nagar, Vyasarpadi,
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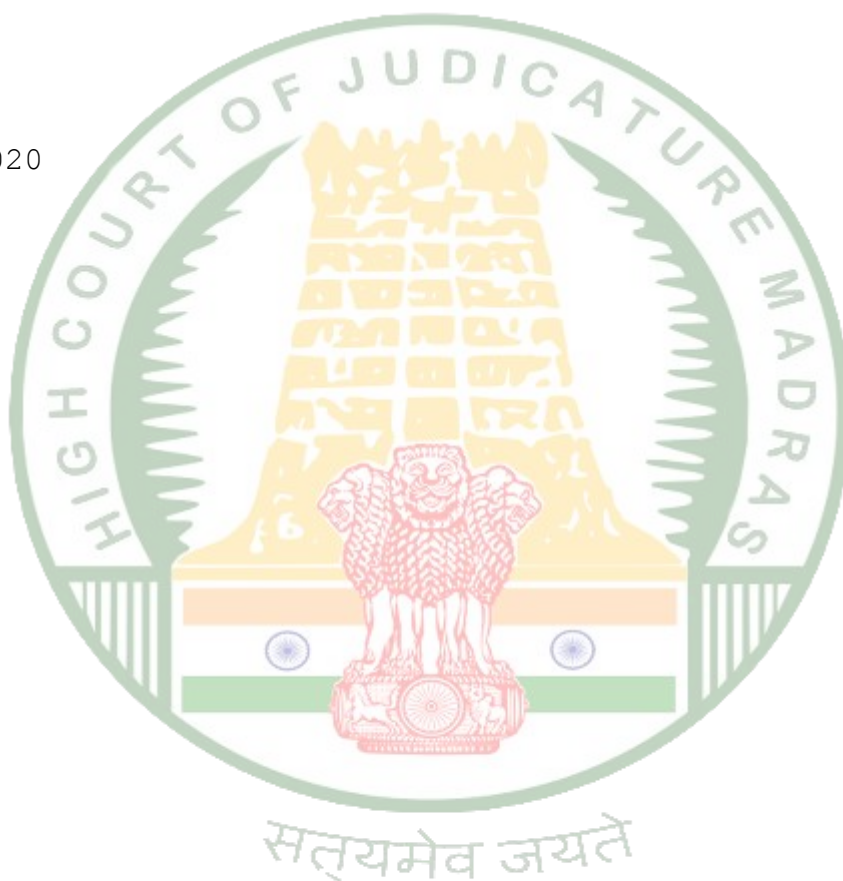
3.The Senior Inspector of Police
Antop Hill Police Station
Mumbai

copy to

The Commissioner of Police
Mumbai

H.C.P. No.1234 of 2020

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