



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.06.2020

CORAM:

**THE HONOURABLE MR.JUSTICE P.N.PRAKASH
and
THE HONOURABLE MR.JUSTICE B.PUGALENDHI**

H.C.P. (MD) No.177 of 2020

Vengadashwari

... Petitioner

-VS-

- 1.The Superintendent of Police
Virudhunagar District
Virudhunagar
- 2.The Deputy Superintendent of Police
Aruppukottai
Virudhunagar District
- 3.The Inspector of Police
Aruppukottai All Woman Police Station
Virudhunagar District

4.Mani

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of habeas corpus directing the respondents 1 to 3 to produce the body or person of the detinue, namely, Kavin Mani, aged about 6 months, son of Vengadashwari and consequently to handover the detinue to the petitioner's custody.

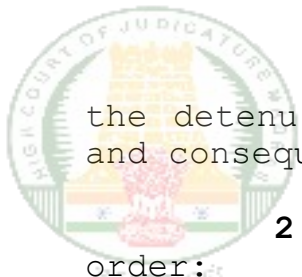
For Petitioner : Mr.M.S.Jeyakarthik

For Respondents : Mr.R.Anandharaj
Additional Public Prosecutor for R1 to R3
Ms.J.Saranya for R4

O R D E R

[Order of the Court was made by P.N.PRAKASH, J.]

This Habeas Corpus Petition has been filed seeking a
<https://hccservicescourts.gov.in/cse/theses/> respondents 1 to 3 to produce the body or person of



the detenu viz., petitioner's son Kavin Mani, aged about 6 months, and consequently to handover the custody of the detenu with her.

2. On 20.03.2020, this Court has passed the following order:

"Vengadashwari had a live-in-relationship with Mani, who was already married but childless, and begot a child through Mani on 19.08.2019. It appears that some differences of opinion cropped up between Vengadashwari and Mani, on account of which, they got estranged. It is the case of Vengadashwari that Mani had taken away her breast-fed infant (6 months old) forcibly. Hence, Vengadashwari has filed the present Habeas Corpus Petition.

2. On notice, Mani is before this Court with the infant. Vengadashwari is also present.

3. The learned Counsel for Mani submitted that on a false complaint given by Vengadashwari, the Aruppukottai All Women Police Station have registered a case in Crime No.3 of 2020 on 14.02.2020 for the offence under Sections 120B, 376, 420, 496 & 363 IPC against Mani and his sister, Petchiammal. The learned Counsel also contended that Vengadashwari abandoned the infant and left the company of Mani and that Mani had not forcibly snatched away the infant from her, as alleged.

4. Be that as it may, the infant is hardly six months old and it's custody should be with the mother. Therefore, on our direction, Mani handed over the infant to Vengadashwari, in the open Court.

5. The learned Counsel for Mani submitted that Mani is ready to live with Vengadashwari and take care of the child. He requested that the matter could be settled if the parties are referred for mediation. There appears to be sufficient force in the submission. Instead of making the parties to come all the way to the High Court for mediation, we are of the opinion that interest of justice would be served if they are directed to appear before the learned Judge, Family Court, Tuticorin, at 10.30 a.m., on 20.04.2020, who shall direct them to the mediation



centre attached to the Family Court, Tuticorin. The Family Court, Tuticorin, is directed to send a report to this Court on or before 20.06.2020.

6. In the meantime, visitation right is granted to Mani to visit the infant on every Sunday at 10.00 a.m., at the residence of Vengadashwari. It is made clear that Mani shall not try to take forcible custody of the infant from Vengadashwari. It is also open to Mani to approach the appropriate Court for anticipatory bail, if so advised.

Call on 20.06.2020."

3. Today, when the matter was taken up for hearing, the learned counsel for the fourth respondent submitted that the fourth respondent and the petitioner are living together.

4. Whereas, the learned counsel for the petitioner submitted that the fourth respondent is visiting the petitioner to see the child.

5. Be that as it may, when there is no illegal detention of the detenu, a writ of habeas corpus cannot be issued. Accordingly, the Habeas Corpus Petition is dismissed with liberty to the petitioner to workout her remedy in the manner known to law.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

Note:

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.



To:

- 1.The Superintendent of Police,
Virudhunagar District,
Virudhunagar.
- 2.The Deputy Superintendent of Police,
Aruppukottai,
Virudhunagar District.
- 3.The Inspector of Police,
Aruppukottai All Woman Police Station,
Virudhunagar District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

H.C.P. (MD) No.177 of 2020

22.06.2020

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SDS (30.06.2020) 4P-5C