



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 31.08.2020

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

and

THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI

H.C.P. (MD) No.469 of 2020

P.Nagalakshmi ... Petitioner/Mother of the detenu

vs.

1.The Commissioner of Police,
Madurai City, Madurai.

2.The Inspector of Police,
E-2 K.Pudur Police Station,
K.Pudur, Madurai -7.

3.A.Prasanth ... Respondents

PRAYER: The Habeas Corpus Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus directing the respondents 1 and 2 herein to produce the body or person of the detenu/petitioner's daughter namely Hansika, D/o Prasanth, female aged 3 years before this Court and handed over custody to her.

For Petitioner : M/s.A.S.Rajeswari

For Respondents 1 & 2 : Mr.V.Neelakandan
Additional Public Prosecutor

For Respondent No.3 : Mr.S.M.Solaisamy

O R D E R

[Order of the Court was made by **K.KALYANASUNDARAM, J.**]

This Habeas Corpus Petition has been filed seeking direction to the respondents 1 and 2 to produce the petitioner's daughter viz., Hansika, aged 3 years, before this Court and to hand over the custody to the petitioner.

2. As per the order of this Court, dated 27.08.2020, the petitioner as well as her husband Prasanth are appeared before this Court along with the minor child Hansika.

3. On enquiry, the third respondent would state that he had already filed a case in H.M.O.P.No.276 of 2020 before the Family



Court, Madurai against the petitioner under Section 13(1)(I) and 1 (A) of the Hindu Marriage Act and G.W.O.P.No.288 of 2020, seeking permanent custody of the minor child.

4. The learned counsel appearing for the petitioner by producing the order passed in C.R.P.(MD).No.270 of 2017, dated 13.12.2017, would argue that the mother is a natural guardian to the girl child below 5 years. It is also stated that the registration of the case in Crime No.1919 of 2020 would show that the third respondent has taken the minor child by force.

5. However, we are unable to agree with the submission of the learned counsel for the petitioner for the reason that the third respondent has disputed the statement made by the learned counsel for the petitioner. It is a settled law that the paramount consideration is the welfare of the minor child and we are of the opinion that the petitioner is not entitled to the relief as sought for in this Habeas Corpus Petition. Hence, the Habeas Corpus Petition is dismissed.

Sd/-

Assistant Registrar (Crl.Side)

// 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 Commissioner of Police,
Madurai City, Madurai.
- 2.The Inspector of Police,
E-2 K.Pudur Police Station,
K.Pudur, Madurai -7.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

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