



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

and

THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI

H.C.P. (MD) No.1038 of 2020

Kalaimathi

... Petitioner

-vs-

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

2.The Inspector of Police,
Kanyakumari Police Station,
Kanyakumari.

3.Sudhan @ Rajkamal

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of habeas corpus directing the respondents 1 and 2 to produce the body or person of the petitioner's daughter, namely, Prabha D/o Kannan, aged 24 years and petitioner's grandson, namely, Neswin aged 11 months old from the illegal custody of the third respondent before this Court and set them at liberty.

For Petitioner : Mr.M.Murugesan
For Respondents : Mr.K.Dinesh Babu
Additional Public Prosecutor (for R1 & R2)

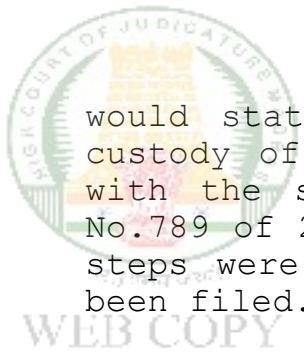
For Detenues : Mrs.Yasimin Begam

O R D E R

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

This habeas corpus petition has been filed seeking a direction to the respondents 1 and 2 to produce the petitioner's daughter, namely, Prabha D/o Kannan, aged about 24 years and her grandson, namely, Neswin aged about 11 months from the illegal custody of the third respondent before this Court and set them at liberty.

2.It is the case of the petitioner that her husband, by name, Kannan died about 15 years ago and during the lawful wedlock, a daughter was born to them, namely, the first detainee herein. After her husband's death, she was taking care of her daughter and she was married one Samjebastin and it was a love marriage and the second detainee was born to them in the year 2019. However, from 10.10.2020, both the detainees are found missing. The petitioner



would state that she came to know that they are in the illegal custody of the third respondent and hence, she lodged a complaint with the second respondent and the same was registered in Crime No.789 of 2020 under girl missing and boy missing, but no effective steps were taken to secure them. Hence, the present petition has been filed.

3.When the matter is taken up for hearing today, the petitioner, her son-in-law Samjebastin and the detenues appeared through video conferencing. On enquiry, the first detenu Prabha would state that her husband was unemployed and he used to give physical and mental harassment and in fact, she was assaulted by her husband and hence, now she is staying at Therakalputhur at Nagercoil by taking a separate house along with the second detenu.

4.Mrs.Yasmine Begam, learned counsel for the detenues would state that the first detenu has already filed a case seeking divorce from her husband and the detenu is not willing for settlement.

5.When this Court sought opinion of the learned counsels to refer the matter to the mediation to explore the possibility of the settlement, the first detenu objected and it is stated that there is no possibility of settlement before the mediation.

6.The learned counsel for the petitioner Mr.M.Murugesan would state that when the first detenu left the home on 10.10.2020, she had taken away 22 Sovereign gold jewels and the petitioner and her son-in-law are interested to take care of the minor child, namely, the second detenu.

7.Since it is informed by the learned counsel for the detenues that the detenues are not in the illegal custody of the third respondent, this habeas corpus petition is closed granting liberty to the petitioner and her son-in-law to workout their remedy before the competent civil Court.

Sd/-

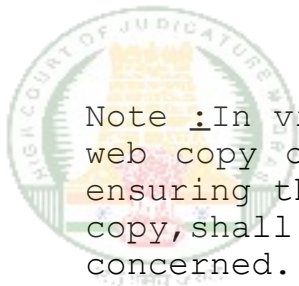
Assistant Registrar (CO)

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/ /2020

Sub Assistant Registrar(CS)

skn



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.

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To:

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

+2 CC to M/s.P.YASMIN BEGAM, Advocate (SR-23769[F] dated 03/12/2020)

H.C.P. (MD) No.1038 of 2020
01.12.2020

MA (CO)

AP (11/12/2020) 3P 6C