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H.C.P.(MD) No.1094 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

and

THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI

H.C.P. (MD) No.1094 of 2020

Ramya

... Petitioner/Mother of the detenus

-vs-

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

2.The Inspector of Police,
Taluk Police Station,
Thanjavur District.

3.Ramesh

... 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 Rakshitha, daughter of Ramesh, aged 8 years and son namely, Sai Sanju, son of Ramesh, aged 3 years old from the illegal custody of the third respondent before this Court and hand over the custody to her.

For Petitioner	:	Ms.K.Mahalakshmi
For Respondents	:	Mr.R.Anandharaj,
1 and 2		Additional Public Prosecutor

O R D E R

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

The present Habeas Corpus petition has been filed seeking a direction to the respondents 1 and 2 to produce the Petitioner's daughter namely, Rakshitha, aged about 8 years and her son Sai Sanju, aged about 3 years from the illegal custody of the third respondent and hand over the custody to the Petitioner.

2.It appears that the petitioner is the wife of the third respondent and the marriage between them was performed on 6.2.2012. During the lawful wedlock, they are blessed with the detenus herein. It is seen that due to misunderstanding between the Petitioner and the third respondent, a divorce petition was filed before the Family Court, Thanjavur and the same is pending in H.M.O.P.No.302 of 2019.

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3. When the matter is taken up for hearing today, both the detenus and their parents-the Petitioner and the third respondent appeared before this Court through video conferencing. The Petitioner as well as the third respondent are making mutual allegations against each other. The first detenu/minor Rakshitha stated that she wanted to live with her father. In view of the family dispute, we are of the opinion that it would not be appropriate to pass final orders with regard to the custody of minor children in this case and hence the Habeas Corpus petition is closed. However, we direct the learned Judge, Family Court, Thanjavur to refer H.M.O.P.No.302 of 2019 to Mediation to explore the possibility of settlement between the parties.

4. With the above observation and direction, the Habeas Corpus Petition is closed.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

vsn

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,
Thanjavur District, Thanjavur.
2. The Inspector of Police,
Taluk Police Station, Thanjavur District.
3. The Judge, Family Court, Thanjavur.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

Copy To:- The Registrar(Judicial),
Madurai Bench of Madras High Court, Madurai.

ORDER MADE IN

H.C.P. (MD) No.1094 of 2020

22.12.2020

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