

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.03.2021

Coram

The Hon'ble Mr. Justice P.N.PRAKASH
and
The Hon'ble Mr. Justice V.SIVAGNANAM

H.C.P. No. 108 of 2021

Jayanthi Udayakumar

.. Petitioner

Vs

1. The Commissioner of Police,
Office of the Commissioner of Police,
Chennai City, Vepery,
Chennai - 600 007.

2. The Inspector of Police,
W20, All Women Police Station,
Saidapet,
Chennai - 600 015.

3.N.Sridharan

4.N.Vasantha

5.N.Radhakrishnan

.. Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of Habeas Corpus directing respondents 1 and 2 to retrieve the minor child S.Rithvik (aged about 5 years) born on 19.08.2015 from the unlawful custody of respondents 3 to 5 and cause production of the body of the person of the minor child S.Rithvik (aged about 5 years) born on 19.08.2015 before this Court and hand him over to the petitioner.

For Petitioner : Ms.K.Sumathi

For Respondents : Mr.R.Prathap Kumar,
Addl.Public Prosecutor
for R1 & R2
Mr.M.Mohammed Rafi
for R3 to R5

ORDER

[Order of the Court was made by V.SIVAGNANAM, J.]

Seeking a direction to respondents 1 and 2 to retrieve the minor child S.Rithvik (aged about 5 years) from the unlawful custody of respondents 3 to 5 and cause production of the minor child S.Rithvik, before this Court and to hand him over to the petitioner, the present habeas corpus petition has been filed.

2.On 08.02.2021, this Court passed the following order:

On 05.02.2021, this Court passed the following order:

"Today, Ms.R.L.Karthika, learned counsel entered appearance for respondents 3 to 5.

2.Today, Ms.R.Margaret Dhanaseeli, Inspector of Police, W20 All Women Police Station, Saidapet, Chennai and Ms.R.Sagunthala, Sub Inspector of Police, W20 All Women Police Station, Saidapet, Chennai are present.

3.On instructions, the learned Additional Public Prosecutor submitted that the police have been trying their best to locate the third respondent but the third respondent and his relatives were giving slip to the police by changing their mobile locations as well their place of stay.

4.In the opinion of this Court, this is a fit case where the police ought to have registered an FIR and the third respondent cannot escape by stating that he is the father of the child. The manner in which the child has been taken from the custody of the petitioner does give reasonable ground for the registration of an FIR by the police. However, learned counsel for the third respondent submitted that no precipitative action may be ordered by this Court and that the child will be produced before this Court on 08.02.2021.

Recording the above submission, the matter stands adjourned to 08.02.2021."

2. Pursuant to the order passed by this Court, S.Sridharan, third respondent herein, brought the minor child Rithvik, S/o.Sridharan, aged about 5 years, to this Court. The petitioner is also present.

3. The learned counsel for Sridharan made several allegations against the conduct of the petitioner and submitted that, if the child Rithvik is given custody to the petitioner, it will not be for its welfare.

4. The fact remains that Rithvik was taken away from the custody of the petitioner on 2nd January, 2021 and despite attempts by the police to trace Sridharan and Rithvik, they were not able to do it as Rithvik was shifted from place to place.

5. Though Rithvik was initially unwilling to go with the petitioner, when this Court directed the Court Officer to be with Rithvik and his mother, petitioner herein, in the Mediation Room, Rithvik was found to be fond of his mother.

6. In such view of the matter, we hand over the custody of Rithvik to the petitioner with liberty to Sridharan to approach the appropriate Court for custody and guardianship of the child.

7. We direct the Child Welfare Committee, Chennai, to visit the house of the petitioner in Door No.48, Perumal Koil Street, Saidapet, Chennai - 600 015, (Mobile No.90429 08772), immediately, assess the well-being of the child Rithvik and report to this Court, if any further directions are necessary.

Call on 01.03.2021.

3.The Child Welfare Committee has reported that the child is in custody of the petitioner and is normal. Recording the same, this habeas corpus petition stands closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

mmi

To

1. The Commissioner of Police,
Office of the Commissioner of Police,
Chennai City,
Vepery, Chennai - 600 007.

2. The Inspector of Police,
W20, All Women Police Station,
Saidapet,
Chennai - 600 015.

3. The Child Welfare Committee,
Chennai.

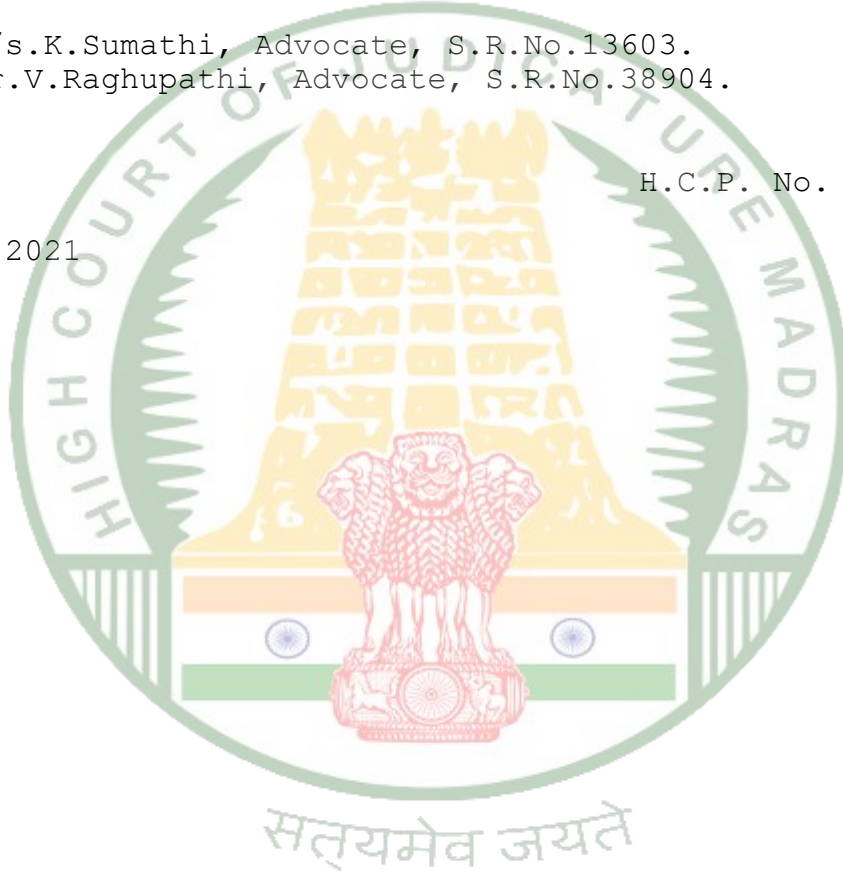
4. The Public Prosecutor,
High Court, Madras.

+3cc to M/s.K.Sumathi, Advocate, S.R.No.13603.

+2cc to Mr.V.Raghupathi, Advocate, S.R.No.38904.

H.C.P. No. 108 of 2021

GP (CO)
CSR 24.03.2021



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