

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 26.02.2021

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH
AND
THE HONOURABLE Mr.JUSTICE V.SIVAGNANAM

H.C.P.No.207 of 2021

J.Sitha Lakshmi Petitioner
Vs.

1.The Superintendent of Police (North)
Puducherry Police
Puducherry

2.The Station House Officer
Villianur Police Station
Villianur, Puducherry

3.Annakili

4.The Chairperson
Child Welfare Committee
OHSS, Ariyankuppam
Puducherry-4

(Impleaded as R4 vide order of this Court dt.26.02.2021)

..... Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS to direct the 2nd respondent to produce the body of the minor son of the petitioner viz. Lithesh Krishna, aged 8 years before this Hon'ble Court from the custody of the 3rd respondent and to hand over the custody of Lithesh Krishna to her.

For Petitioner : Ms.M.N.Sumathy
For R1, R2 and R4 : Mr.V.Balamurugane
Public Prosecutor (Puducherry)
For R3 : Mr.E.Ezhil Caroline

O R D E R

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

This petition has been filed seeking direction to the 2nd respondent to produce the petitioner's minor son viz. Lithesh Krishna, aged 8 years before this Court from the custody of the 3rd respondent and to hand over the custody of Lithesh Krishna to her.

2. It is the case of the petitioner that she got married to one Aruldass, Police Constable-2983, through whom, she was blessed with a son viz. Lithesh Krishna on 23.12.2012, who is now 8 years old. Aruldass died on 18.02.2015 and thereafter, the petitioner got married to one Durairaj on 10.11.2019. While the petitioner was in the family way, Lithesh Krishna was brought up by Aruldass's mother Annakili (R3). It is the grievance of the petitioner that Annakili (R3) is not giving custody of Lithesh Krishna to her. Hence, this Habeas Corpus Petition has been filed.

3. Today, the petitioner, Annakili (R3) and Lithesh Krishna are present before this Court. When this Court interviewed Lithesh Krishna, it is obvious to us that the child was brainwashed to such an extent that he showed repulsion towards his mother. Therefore, this Court is unable to forcibly hand over the custody of Lithesh Krishna to the petitioner, though she is the lawful guardian.

4. Mr.E.Ezhil Caroline, learned counsel for Annakili (R3) and Annakili (R3) have stated that they would provide best education to Lithesh Krishna and will not take him away from the School where he is studying, without the knowledge of the petitioner. Annakili (R3) also stated that she will permit the petitioner's access to her son Lithesh Krishna whenever the latter desires. Recording the said undertaking, this Court grants visitation rights to the petitioner to visit Lithesh Krishna in the house of Annakili (R3) during the weekends and also take him to a nearby temple or park or other places, but, should drop him back by 06.00 p.m. It is made clear that the petitioner is permitted to take Lithesh Krishna out during weekend, only if he desires and not forcibly. Further, this Court grants liberty to the petitioner to approach the competent Court for filing an application for guardianship and custody of Lithesh Krishna. Until appropriate orders are passed, this aforesaid arrangement shall continue.

With the above directions and observations, this Habeas Corpus Petition is closed. The Child Welfare Committee (R4) is

directed to make occasional visits to the house of Annakili (R3) and ensure that Lithesh Krishna is brought up well. If the Child Welfare Committee (R4) finds anything abnormal, it is open to the Child Welfare Committee (R4) to approach this Court by filing a Miscellaneous Petition.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

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To

1.The Superintendent of Police (North)
Puducherry Police
Puducherry

2.The Station House Officer
Villianur Police Station
Villianur, Puducherry

3.The Chairperson
Child Welfare Committee
OHSS, Ariyankuppam
Puducherry-4

4.The Public Prosecutor
High Court, Madras.

+1cc to Mr.M.N.Sumathy, Advocate SR.No. 12520

+1cc to Mr.J.Suresh, Advocate SR.No. 11927

H.C.P.No.207 of 2021

A.SK(18.03.2021)

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