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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.07.2021

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH
AND
THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

H.C.P.No.229 of 2021

Rubeka Sathya Kumar
W/o.Boobathi

..Petitioner/Mother
of the Detenue

Vs.

1. The Commissioner of Police,
Chennai City Police,
Vepery, Chennai - 600 007.
2. The Inspector of Police,
All Women Police Station,
Poonamallee, Tiruvallur District.
3. The Superintendent of Police,
Ramnad District, Ramnad.
4. The Deputy Superintendent of Police,
Ramnad District, Ramnad.
5. The District Child Protection Officer,
District Child Protection Section,
Social Welfare Office,
No.48, J.N.Salai, Thiruvallur - 602 001.
6. Muruganantham
7. The Inspector of Police,
Emaneswaram, Paramakudi,
Ramanathapuram District.

[R7 suo motu impleaded as per order
in H.C.P.No.229/2021 dated 22.04.2021]

..Respondents

Habeas Corpus Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus to issue a direction to the respondents 1 to 4 herein to produce the body of the detenu, namely, Rithish S/o.Boobathi, aged about



1 year, from the custody of sixth respondent, before this Court and hand over the custody to the petitioner.

For Petitioner : Mr.K.Thenrajan

For Respondents: Mr.R.Muniyapparaj
Government Advocate [Crl.side]
[R1 to R5 & R7]
Mr.Subash Babu [R6]

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ORDER

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

This petition has been filed seeking a direction to the respondents 1 to 4 herein to produce the body of the detenu, namely, Rithish S/o.Boobathi, aged about 1 year, from the custody of sixth respondent, before this Court and hand over the custody to the petitioner.

2. It is the case of the petitioner that she is a staff nurse working in Savitha hospital; that she fell in love with one Boopathy and before marriage, she conceived and delivered a male child viz., Rithish on 16.11.2019; since the child was born prior to marriage, she handed over the child to one Muruganantham, who, in turn, had handed over the child to a childless couple by name Rathinavel and Mangaleswari; she and Boopathi decided to live together and hence, she wanted back her child; since the whereabouts of the child was not known, the petitioner lodged a complaint dated 21.01.2021 to the police and thereafter, filed the present petition.

3. During the course of hearing, we impleaded the Inspector of Police, Emaneswaram, Paramakudi, Ramanathapuram District, as the seventh respondent. We also directed the Superintendent of Police, Ramnad District, to constitute a special team to trace the whereabouts of Rathinavel, Mangaleswari and the child. Accordingly, a special team was constituted by the Superintendent of Police and they traced the whereabouts of Rathinavel, Mangaleswari and the child and produced them before us today.

4. Mr.Subash Babu, learned counsel, entered appearance for Rathinavel and Mangaleswari. Learned counsel submitted that the child was handed over to the couple by the petitioner when the child was hardly 6 months old, because the child was born even before her marriage to the said Boopathi. For the last 2½ years, the child was brought up by Rathinavel and Mangaleswari and they showered love and affection towards the child. Learned counsel further contended that Rathinavel and Mangaleswari have filed a



Guardian Original Petition in the jurisdictional Court in Ramnad District for the custody of the child. The said petition was not numbered, but returned.

5. Be that as it may, the fact remains that the petitioner is the biological mother of the child and the child was not given in valid adoption to Rathinavel and Mangaleswari. In fact, Rathinavel and Mangaleswari should have approached the Court concerned and should have taken steps for adopting the child in the manner known to law.

6. Today, the petitioner and her husband Boopathi are also present. The child was handed over to the petitioner, she being its biological mother. However, we grant visitation rights to Rathinavel and Mangaleswari to visit the child on and off in the house of the petitioner after prior intimation to the petitioner. Of course, they will not be entitled to take away the child from the custody of the petitioner. This is without prejudice to their right to seek appropriate orders for custody, if so advised, before the competent Court.

With the above observation, the Habeas Corpus Petition is closed.

Sd/-

Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

gm

To

1. The Commissioner of Police,
Chennai City Police,
Vepery, Chennai - 600 007.
2. The Inspector of Police,
All Women Police Station,
Poonamallee, Tiruvallur District.
3. The Superintendent of Police,
Ramnad District,
Ramnad.
4. The Deputy Superintendent of Police,
Ramnad District,
Ramnad.



5. The District Child Protection Officer,
District Child Protection Section,
Social Welfare Office,
No.48, J.N.Salai,
Thiruvallur - 602 001.

6. The Inspector of Police,
Emaneswaram,
Paramakudi,
Ramanathapuram District.

7. The Public Prosecutor,
High Court, Madras.

H.C.P.No.229 of 2021

SR(CO)
RGA(25/08/2021)