

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.04.2021

Coram

The Honourable Mr. Justice P.N.PRAKASH
and
The Honourable Mr. Justice R.PONGIAPPAN

H.C.P.No.607 of 2021

Sudheeshna

.. Petitioner

Vs.

1.The Commissioner of Police,
Vepery, Chennai.

2.The Joint Commissioner of Police,
Police Commissioner Road,
St.Thomas Mount,
Chennai - 600 016.

3.The Deputy Commissioner of Police,
Police Commissioner Road,
St.Thomas Mount,
Chennai - 600 016.

4.The Inspector of Police,
All Women Police Station,
Madipakkam,
Chennai.

5.M.Jothilingam

6.M.Sakthilingam

.. Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus to direct the 4th respondent to produce the petitioner's son viz., J.S.Varnitt, aged about 3 years, before this Court from the custody of the 5th and 6th respondents and hand over to the petitioner.

For Petitioner : Mr.Ma.Gouthaman

For RR 1 to 4 : Mr.R.Prathap Kumar
Additional Public Prosecutor

ORDER

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

This habeas corpus petition has been filed seeking to direct the 4th respondent to produce the petitioner's son viz., J.S.Varnitt, aged about 3 years, before this Court from the custody of the 5th and 6th respondents and hand over to the petitioner.

2. It is the case of the petitioner that she got married to Jothilingam, fifth respondent herein and was blessed with twin children viz., Varnitt (male) and Varnitta (female). It is the grievance of the petitioner that Jothilingam forcibly took away Varnitt on 23.01.2021 and is not permitting her to have access. In this connection, the petitioner has sent a complaint dated 20.03.2021 to the Joint Commissioner of Police and thereafter, filed the present habeas corpus petition.

3. Heard Mr.Ma.Gouthaman, learned counsel for the petitioner and Mr.R.Prathap Kumar, learned Additional Public Prosecutor appearing for the respondents 1 to 4.

4. In the complaint dated 20.03.2021, the petitioner has stated that her husband had taken away Varnitt on 23.01.2021, whereas, in the affidavit, she has stated that the child was forcibly taken away on 19.10.2020 and on the complaint given by her, a petition enquiry in C.S.R.No.271 of 2020 was conducted.

5. This Court cannot go into disputed questions of fact in the present habeas corpus petition.

Hence, this habeas corpus petition is closed with liberty to the petitioner to approach the appropriate Court for custody and interim visitation rights, since the custody of a child with its father is not prima facie illegal for the issuance of a writ of habeas corpus.

सत्यमेव जयते

Sd/-

Assistant Registrar

//True Copy//

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Sub Assistant Registrar

nsd

To

1.The Commissioner of Police,
Vepery, Chennai.

2.The Joint Commissioner of Police,
Police Commissioner Road,
St.Thomas Mount,
Chennai - 600 016.

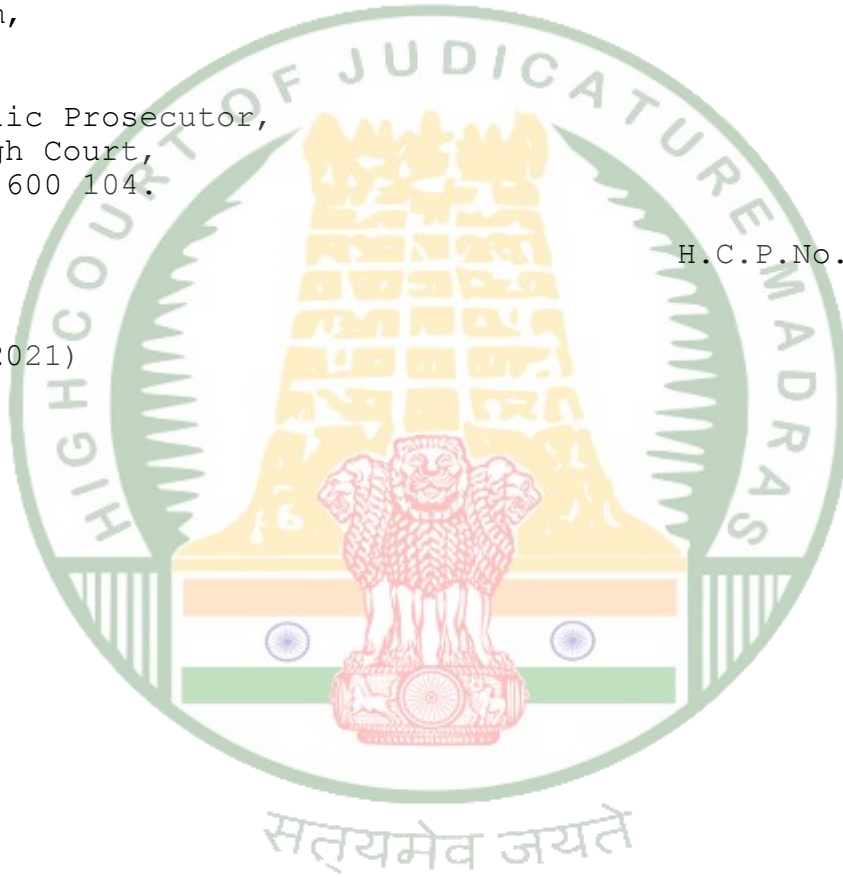
3.The Deputy Commissioner of Police,
Police Commissioner Road,
St.Thomas Mount,
Chennai - 600 016.

4.The Inspector of Police,
All Women Police Station,
Madipakkam,
Chennai.

5.The Public Prosecutor,
Madras High Court,
Chennai - 600 104.

H.C.P.No.607 of 2021

AJB(CO)
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