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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.11.2021

CORAM

THE HONOURABLE MR. JUSTICE P.N.PRAKASH
AND
THE HONOURABLE MRS. JUSTICE S.SRIMATHY

H.C.P.NO.903 OF 2021

D.Soundarya
W/o.Dilipkumar

.. Petitioner

Vs.

1. The Commissioner of Police,
Greater Chennai (Law & Order),
Vepery, Chennai - 600 007.

2. The Inspector of Police,
R-8, All Women Police Station,
Kodambakkam,
Chennai - 600 024.

3. Dillipkumar
S/o.Senthilvelu

.. Respondents

Habeas Corpus Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus directing the respondents herein to produce the petitioner's son, namely, Nadhishvkumar (minor), aged about 2 years, before this Court and handover his custody to the petitioner.

For Petitioner : Mr.M.Gnanasekar

For Respondents : Mr.R.Muniyapparaj
Additional Public Prosecutor [R1 & R2]
Mr.T.Sivagnanasambandam [R3]

ORDER

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

This petition has been filed seeking a direction to the respondents herein to produce the petitioner's son, namely, Nadhishvkumar (minor), aged about 2 years, before this Court and handover his custody to the petitioner.



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2. On 04.10.2021, we passed the following order:

'On 19.07.2021, we passed the following order:

'It is the case of the petitioner that she got married to the 3rd respondent, on 31.08.2017 and through the wedlock, they were blessed with two children viz. Nadhishvkumar, aged about 2 years and Lidhisha, aged about 1 year. It is her further allegation that she was ill-treated in her matrimonial home and was sent out with her second child. In this regard, the petitioner gave a complaint dated 13.03.2021 and thereafter, she has filed the present Habeas Corpus Petition.

2. On notice, we heard the learned counsel for the petitioner and the learned counsel for the third respondent and passed the following order, on 05.07.2021:

"Today, the 3rd respondent has filed his counter affidavit dated 18.06.2021.

2. It appears that the 3rd respondent has the custody of Nadhishvkumar, aged about 2¹/₂ years and the learned counsel for the 3rd respondent stated that the petitioner can join the matrimonial home at any time and that the 3rd respondent will not deny her free access to their son Nadhishvkumar.

3. Recording the aforesaid submission of the learned counsel for the 3rd respondent, permission is granted to the petitioner to visit Nadhishvkumar in door No.62, Bharathi Eswaran Colony, 2nd Street, Kodambakkam, Chennai-24. If the 3rd respondent cause any hindrance to the petitioner to see the child, the petitioner shall approach the 2nd respondent police, who shall provide the necessary escort for the petitioner to visit the child.

4. This is purely a temporary arrangement, in view of COVID-19 pandemic situation.

5. Parties may be referred to the Mediation and Conciliation Centre, once normalcy is restored,

Post this matter on 19.07.2021."

3. Today, the petitioner and Dillipkumar appeared via Video Conferencing and the petitioner stated that she was prevented from seeing the child by Dillipkumar and his family



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members, despite the order of this Court. When she approached the local police station, Dillipkumar's Advocate intervened and the Police also pleaded their inability to help her.

4. Dillipkumar explained to us that, he is working along with his wife in Eagle Software and one day, he took the child to the Office and the petitioner saw the child. But, we are not convinced with the statement of Dillipkumar.

5. We are of the view that interests of justice will be served, if the third respondent is directed to drop the child on every Saturday at 10.00a.m. in the residence of the petitioner and collect the child back at 5.00p.m. on the immediate succeeding Sunday, as an ad interim measure, until further orders are passed by this Court. If there is any non-compliance by Dillipkumar, the same shall be viewed very seriously. When Dillipkumar comes to drop the child (Nadhishvkumar), the petitioner is directed to permit him to have access to the second child (Lidhisha). Both sides agreed to this proposal.

Adjourned to 31.08.2021.'

2. During the subsequent hearings, it came to our notice that Dilip Kumar was not complying with the order passed by this Court in letter and spirit and was giving some excuses for not dropping the child Nadhishvkumar in the residence of the petitioner. Therefore, by order dated 01.10.2021, we directed Dilip Kumar to produce the child Nadhishvkumar before us today.

3. Today, Ms.Renuga, Sub-Inspector of Police, Vadapalani, W27 AWPS, Chennai, is present. The petitioner is also present. Dilip Kumar is present with the child Nadhishvkumar. Mr.T.Sivagnanasambandam, learned counsel, entered appearance for Dilip Kumar.

4. When the petitioner called the child Nadhishvkumar, he immediately went to her and clinged on to her. Therefore, we handed over the custody of Nadhishvkumar to the petitioner today. However, Dilip Kumar will be entitled to visit the residence of the petitioner on every Sunday to spend time with both the children. But, he shall not remove them from the custody of the petitioner.

5. We are of the opinion that it would be desirable to send the parties for mediation, so that, the matter could be settled amicably.



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6. The parties are directed to appear before the Assistant Registrar, Tamil Nadu Mediation and Conciliation Centre attached to this Court, Ground Floor, High Court Building, today, along with their respective counsel. On their appearance, the Assistant Registrar shall arrange for mediation in the High Court mediation room itself by availing the service of a competent mediator.

Post on 01.11.2021 along with the mediation report.

3. Today, Soundarya and Dilip Kumar are present before us with their respective counsel. They have settled their disputes amicably in the mediation centre and a report dated 29.10.2021 has been received from the

mediation centre, which reads as follows:

' SETTLEMENT AGREEMENT

This SETTLEMENT AGREEMENT entered into on 29.10.2021 between:

Dilipkumar
and
Soundarya

WHEREAS

1. Disputes and differences had arisen between the parties hereto and H.C.P.No.903 of 2021 was filed on 19.04.2021 before the Hon'ble High Court, Madras.
2. The matter was referred to mediation / conciliation vide and order dated 04.10.2021 passed by the Hon'ble Division Bench consisting their Lordships Mr.Justice P.N.PRAKASH and Hon'ble Mrs.Justice R.N.MANJULA.
3. The parties agreed that Mrs.V.NALINI would act as their Mediator/ Conciliator.
4. Several Meetings were held during the process of Mediation/ Conciliation from 04.10.2021 to 29.10.2021 and the parties have with the assistance of the Mediator/Conciliator voluntarily arrived at an amicable solution resolving the above mentioned disputes and differences.
5. The parties hereto confirm and declare that they have voluntarily and of their own free will arrived



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at this Settlement Agreement in the presence of the Mediator / Conciliator.

6. The following settlement has been arrived at between the parties hereto:

(i) The petitioner Soundarya will be allowed to go to for employment and allow to see her blood relatives namely sisters and their family in the same manner the husband also will be allowed to visit and meet his relatives.

(ii) The petitioner will not leave the matrimonial home without permission or intimation from the matrimonial home.

(iii) Both of them will live together happily and take care of the children and both of them will not indulge any fight between each other.

7. By signing this Agreement the Parties hereto state that they have no further claims or demands against each other with respect to H.C.P.No.903/2021 and all disputes and differences in this regard have been amicably settled by the parties hereto through the process of conciliation / Mediation.'

Recording the same, this Habeas Corpus Petition is closed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

gm

To

1. The Commissioner of Police,
Greater Chennai (Law & Order),
Vepery, Chennai - 600 007.
2. The Inspector of Police,
R-8, All Women Police Station,
Kodambakkam,
Chennai - 600 024.



3. The Assistant Registrar (Mediation)
Tamilnadu Mediation and Conciliation Centre
Ground Floor,
High Court, Madras

4. The Sub Inspector of Police,
Vadapalani,
W 27, All Women Police Station,
Chennai.

5. The Public Prosecutor,
High Court, Madras.

+1CC to Mr.C.Ganesh Pandian, Advocate, Sr.No.57099

H.C.P.No.903 of 2021

RSI (CO)
K.RK. (17.11.2021)