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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.08.2021

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH
AND
THE HONOURABLE MS.JUSTICE R.N.MANJULA

H.C.P.NO.725 OF 2021

S.Bhuvana

... Petitioner

.Vs.

1. The Commissioner of Police,
Greater Chennai Police,
No.132, Commissioner Office Buildings,
EVK Sampath Road,
Vepery, Chennai - 600 007.

2. The Inspector of Police,
S-15, Selaiyur Police Station,
Chennai - 600 059.

3. K.R.Sahasram @ Sahasranaman

4. Dr.Gopalakrishnan @ Guruji Ravi Sarma

... Respondents

PRAYER:-

Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus directing the respondents to produce the body of the detenu, the petitioner's minor son viz., S.Shankaraachyuthan, aged about 3½ years, son of K.R.Sahasram @ Sahasranaman, before this Court and hand over to the petitioner forthwith.

For Petitioner : Mr.C.Veeraraghavan

For RR 1 and 2 : Mr.R.Muniyapparaj,
Govt.Advocate (Crl.Side)

For R3 : Mr.A.E.Ravichandran

For R4 : No appearance



ORDER

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

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This habeas corpus petition has been filed seeking to direct the respondents to produce the body of the detenu, the petitioner's minor son viz., S.Shankaraachyuthan, aged about 3½ years, son of K.R.Sahasram @ Sahasranaman, before this Court and hand over to the petitioner forthwith.

2. It is the case of the petitioner that she got married to Sahasram @ Sahasranaman, third respondent herein, on 11.11.2016 and through the wedlock, she has two children viz., Shankaraachyuthan, aged about 3 ½ years and a female child, who was born on 08.02.2021.

3. While that being so, on account of marital discord, she got estranged from her husband and she is living in her parental home with the new born and her eldest son is in the custody of her husband. Alleging that she has not been given access to her child Shankaraachyuthan, aged about 3½ years, this habeas corpus petition has been filed.

4. On 29.06.2021, this Court passed the following order:

"The 3rd respondent has filed counter. The short point that falls for determination is, whether the custody of 3½ years old child viz., Shankaraachyuthan, be given to the petitioner as prayed for by her in this habeas corpus petition.

2. It is admitted that the petitioner has a male child which is six months old and she is required to take care of him.

3. Under such circumstances, the learned counsel for the petitioner submitted that it will be very difficult for the petitioner to visit the house of the respondent for seeing Shankaraachyuthan. However, we grant permission to the petitioner to visit the house of the respondent for seeing Shankaraachyuthan on every Saturday and Sunday and as and when she comes, the respondent shall give her the facility to spend time with Shankaraachyuthan. This is purely an interim arrangement.

Post the matter on 27.07.2021."



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5. On 27.07.2021, this Court passed the following order:

".....

2. After hearing both sides, we are of the opinion that it will serve the interests of justice, if the third respondent is directed to drop the child Shankaraachyuthan at 10.30 a.m. on every Saturday in the house of the petitioner. While dropping the child, the petitioner shall permit the third respondent have company with the new born baby. On the immediately succeeding Sunday evening by 05.00 p.m., the third respondent shall collect Shankaraachyuthan from the petitioner and take with him. This is purely a temporary arrangement, so that, it may give an opportunity for the parties to reconcile their differences and rejoin for the welfare of the two children."

6. Sahasram @ Sahasranaman, third respondent, has filed Crl.M.P.No.7666 of 2021 for modification of the above order alleging that when Shankaraachyuthan was sick, the petitioner forcibly took him from his custody in the guise of implementing the order without even taking into consideration the health condition of the child.

7. We heard both sides.

8. Legally speaking, this is not a case, where, the child is in the illegal custody of the third respondent. However, in order to bring about a rapprochement between the spouses, we gave certain interim directions, which, they have not been able to work out for good or bad reasons.

9. Therefore, all the interim directions issued by this Court are hereby recalled and we direct the parties to work out their remedies before the appropriate Court.

In view of the above discussion, this habeas corpus petition stands closed. Connected Crl.M.P. is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

nsd



To

1. The Commissioner of Police,
Greater Chennai Police,
No.132, Commissioner Office Buildings,
EVK Sampath Road,
Vepery, Chennai - 600 007.
2. The Inspector of Police,
S-15, Selaiyur Police Station,
Chennai - 600 059.
3. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.A.E.Ravichandran, Advocate, S.R.No.39283

H.C.P.NO.725 OF 2021

PMK(CO)
PBS/02/09/2021