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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.07.2021

CORAM

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

H.C.P.NO.1024 OF 2021

M.Chandru
S/o.Muruganantham

.. Petitioner

Vs.

1. The Commissioner of Police,
Greater Chennai Police,
No.132, Commissioner Office Building,
EVK Sampath Road,
Vepery, Chennai - 600007.
2. The Inspector of Police,
V3 JJ Nagar Police Station,
Mogappair East, Chennai - 600040.
3. Nikitha
W/o.M.Chandru
4. Manjunath
S/o.M.Mani

.. Respondents

Habeas Corpus Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus directing the first respondent to produce the body of the petitioner's son C.Nitheeshwaran, Minor, aged 7 years, before this Court and hand over him to the petitioner.

For Petitioner : Mr.Ralph V.Manohar

For Respondents: Mr.R.Muniyapparaj
Government Advocate [Crl.side]

ORDER

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

This petition has been filed seeking a direction to the first respondent to produce the body of the petitioner's son



C.Nitheeshwaran, Minor, aged 7 years, before this Court and hand over him to the petitioner.

2. It is the case of the petitioner that he was in love with Nikitha and got married to her on 01.11.2012 at Pureeswarar Kovil, Othakalmandapam, Coimbatore. Through the wedlock, they were blessed with a son on 18.04.2014 whom they named as Nitheeswaran. While the petitioner had gone to Dubai on employment, it is alleged that Nikitha developed intimacy with one Manjunath S/o.Mani (fourth respondent herein) and had gone away with him. The petitioner left his employment in Dubai and returned to India and went in search of his wife and son, but, to no avail.

3. It is the specific case of the petitioner that on 22.03.2021, he received a phone call from one Meera Mithun, who informed him that his wife and son are available in Door No.4/75, Nakeeran Street, East Mogappair, Chennai - 600 024. Accordingly, the petitioner went to the said address and met his wife and son, but, on account of a quarrel that ensued with his wife, the petitioner returned home. It is the allegation of the petitioner that thereafter, the whereabouts of his wife and son are not known to him.

4. In the typed set of papers, the petitioner has enclosed a set of colour photographs showing his wife in a very compromising position with the fourth respondent.

5. On 02.07.2021, we passed the following order:

'When the matter was taken up for hearing, the learned Government Advocate (Crl.side) submitted that the second respondent/police have not received any formal complaint from the petitioner.

2. It is seen from paragraph no.5 of the affidavit filed by the petitioner that he had last seen the child Nitheeshwaran, aged about 7 years, at Door No.4/75, Nakeeran Street, East Muggapair, Chennai - 600 024.

3. Therefore, we direct the petitioner to go in person and lodge a complaint to the second respondent/police. On such complaint being received, the second respondent/police shall register a regular FIR for 'woman and child missing' and take appropriate action.

With the above direction, this matter stands adjourned to 16.07.2021.'



6. Pursuant to our order and on the complaint given by the petitioner, a case in Crime No.776 of 2021 on the file of J.J.Nagar, Police Station, has been registered for 'woman and boy missing', on 12.07.2021.

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7. Pursuant to the above, today, Mr.T.Janaki Raman, Inspector of Police, J.J.Nagar Police Station along with Ms.K.S.Kavitha, Police Constable, produced Nikitha and Nitheeswaran in person before this Court. The petitioner and his counsel were available via Video Conferencing. The petitioner interacted with his wife and son via Video Conferencing.

8. When we showed the photographs in the typed set of papers to Nikitha, she candidly admitted that she earlier had an affair with Manjunath, got married to him and got estranged from him and is not continuing any relationship with him now. According to Nikitha, she and her son are now residing with her mother at Door No.65, 1st Main Road, near 6th Gear Exclusive Showroom, Sanjeevappa Colony, Mathikarai, Bangalore - 560 054 and her mobile number is 80959 77161.

9. This Court served a copy of the petition, affidavit and typed set of papers filed by the petitioner on Nikitha and obtained her acknowledgment. Nikitha stated that the address given by her is true and she will inform the petitioner as and when if there is any change in address.

10. Nikitha stated that she needs legal assistance to file divorce petition as she cannot afford to engage an Advocate. Therefore, we advised her to approach the Secretary, District Legal Services Authority, Coimbatore, for legal assistance and on she approaching, the Secretary, District Legal Services Authority, Coimbatore, is directed to afford her legal assistance.

11. Learned counsel for the petitioner submitted that he himself would prepare the papers, if Nikitha is willing for divorce by mutual consent and file the papers before the jurisdictional Court. Nikitha agreed for divorce by mutual consent.

12. It is also open to the parties to work out their remedies with regard to custody and visitation rights of the petitioner in respect of the child.



With the above direction, the Habeas Corpus Petition stands closed.

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Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

gm

To

1. The Commissioner of Police,
Greater Chennai Police,
No.132, Commissioner Office Building,
EVK Sampath Road,
Vepery, Chennai - 600007.
2. The Inspector of Police,
V3 JJ Nagar Police Station,
Mogappair East, Chennai - 600040.
3. The Secretary,
District Legal Services Authority,
Coimbatore.
4. The Public Prosecutor,
High Court, Madras.
5. Mrs.Nikitha,
Door No.65, 1st Main Road,
near 6th Gear Exclusive Showroom,
Sanjeevappa Colony,
Mathikarai, Bangalore - 560 054.
Mobile : 80959 77161.

+2ccs to Mr.Ralph V.Manohar, Advocate, S.R.No.33857

H.C.P.No.1024 of 2021

SKY(CO)
CS/09/08/2021