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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 08.07.2021

PRONOUNCED ON : 16.07.2021

CORAM

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

H.C.P.NO.1042 OF 2021

Sonia Idascudder Samipillai

... Petitioner

Vs.

1. The Commissioner of Police,
Greater Chennai City.
2. The Deputy Commissioner of Police,
Law and Order,
St.Thomas Mount,
Greater Chennai City.
3. The Inspector of Police,
Pallikaranai Police Station,
Chennai - 600 100.

4. Wilson Ramesh Suthanthirapandi

... Respondents

PRAYER:-

Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus directing the 3rd respondent to produce the petitioner's minor daughter by name Ms.Chelsea Wilson, aged about 9 years, before this Court, from the custody of the 4th respondent and hand over to the petitioner.

For Petitioner : Mr.J.Hariharan
For M/s.KV Law Firm

For Respondents : Mr.R.Muniyapparaj,
Govt.Advocate (Crl.Side)



ORDER

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

This habeas corpus petition has been filed seeking to direct the 3rd respondent to produce the petitioner's minor daughter by name Ms.Chelsea Wilson, aged about 9 years, before this Court, from the custody of the 4th respondent and hand over to the petitioner.

2. It is the case of the petitioner that her daughter Chelsea, aged about 9 years, is in the illegal custody of her husband viz., Wilson Ramesh, fourth respondent herein and she does not know about their whereabouts at all. Therefore, after sending a representation dated 25.05.2021 by post to the Chief Minister Cell with copies marked to the police, the petitioner has filed the present habeas corpus petition.

3. Even in the affidavit filed by the petitioner, she has stated that she left the child in India and went to the United States for higher studies in September 2017 and returned in March 2019 and in that interregnum, her husband had taken away the child from her parental home. She has further stated that she has filed a divorce proceedings in I.D.O.P.No.149 of 2019 in the District Court, Thiruvallur, in which, she has filed an application in I.A.No.2 of 2019 for the custody of her daughter and those proceedings are pending.

4. In the light of the aforesaid averments that have been made by the petitioner in her own affidavit filed in support of this habeas corpus petition, we are afraid that we cannot grant the relief of habeas corpus.

5. However, the learned counsel for the petitioner pleaded with us to make arrangements for the petitioner to see her child at least by video conferencing.

6. Therefore, we directed the police to make arrangements and accordingly, the petitioner, her husband Wilson Ramesh, fourth respondent and child Chelsea appeared before this Court via video conference and when we enquired with the petitioner's husband, he stated that his wife knows his address and mobile number. However, Wilson Ramesh, fourth respondent, furnished his present address, which is No.2/2, Ground Floor, 6th Cross 4th Main, New BEL Road, MLA Layout, Bangalore, Karnataka - 560 094 and Mobile No.95388 02536.

7. In fact, the petitioner herself has given the above address and mobile number in her representation dated 25.05.2021 and therefore, it cannot be stated that she was not aware of the whereabouts of her husband and daughter.



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8. In view of the above, it cannot be stated that Chelsea, aged about 9 years, who is the daughter of the petitioner, is in the illegal custody of the petitioner's husband viz., Wilson Ramesh, fourth respondent, for the issuance of writ of habeas corpus.

Hence, this Habeas Corpus Petition stands dismissed. However, we direct the District Court, Thiruvallur, to complete the proceedings in I.D.O.P.No.149 of 2019 within six months from the date of receipt of a copy of this order subject to the COVID-19 protocols.

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

nsd

To

1. The District Judge,
Thiruvallur.
2. The Commissioner of Police,
Greater Chennai City.
3. The Deputy Commissioner of Police,
Law and Order, St.Thomas Mount,
Greater Chennai City.
4. The Inspector of Police,
Pallikaranai Police Station,
Chennai - 600 100.
5. The Public Prosecutor,
High Court, Madras.

+1cc to M/s.KV Law Firm, Advocate, S.R.No.33892

H.C.P.NO.1042 OF 2021

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