

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 18.01.2021

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH
AND
THE HONOURABLE Mr.JUSTICE V.SIVAGNANAM

H.C.P.No.1471 of 2020

P.Vasuki

.. Petitioner

Vs.

1.The Superintendent of Police
Coimbatore District
Coimbatore-641 018

2.The Inspector of Police
Vadavalli Police Station
Coimbatore

3.Muthukannu ... Respondents
(Suo motu impleaded as R3 vide order of the Court dt.8.9.2020)

Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS to produce the body of the minor Ashwin Dev, aged 8 years, S/o.Pandidurai, who is missing for the past 20 days before this Court and handover to the petitioner.

For Petitioner : Mr.I.Abrar Mohamed Abdullah

For R1 and R2 : Mr.R.Prathap Kumar
Additional Public Prosecutor

For R3 : Mr.S.Sundaresan
for Mr.Ilayaraja Kandasamy

O R D E R

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

It is the case of the petitioner that she married one Mohan and through whom, she was blessed with a daughter, Swathi, who is now 23 years old. Thereafter, she got separated from Mohan and married one Pandidurai through whom, she has a son Ashwin Dev, who is aged 8 years. Admittedly, Pandidurai is working in Singapore and his mother is living in Devakottai. However, the

petitioner was living with her two children in Coimbatore. According to the petitioner, on 22.03.2020, she went to her native place, Devakottai and on account of COVID-19 lockdown, she was not able to return to Coimbatore. Her two children were in the care of her sister in Coimbatore. While that being so, it is her allegation that her daughter Swathi got married to one Abi and left the house during lockdown leaving Ashwin Dev alone. It is her further allegation that Muthukannu, her mother-in-law (Pandidurai's mother), came and took away Ashwin Dev from Coimbatore and is having illegal custody of him and hence, she prays for issuance of Writ of Habeas Corpus.

2. Today, the petitioner, Muthukannu (3rd respondent), Swathi and Ashwin Dev are present before this Court.

3. This Court enquired with the children and they stated categorically that their mother had deserted them even before the COVID-19 lockdown and had gone and that is why, their grandmother, Muthukannu (3rd respondent) had to intervene and take Ashwin Dev with her.

4. Pertinent it is to state here that Swathi is around 23 years old and she was born to the petitioner through her first husband, whereas Ashwin Dev was born to the petitioner through Pandidurai. We found that both children are very much attached to Pandidurai and the children though born to different fathers, are fond of each other.

5. Swathi also stated that she got married to one Abi and pleaded that the custody of her brother Ashwin Dev should continue to be with their grandmother, till at least their father returns from Singapore. That apart, it is brought to the notice of this Court that Muthukannu (3rd respondent) has filed a petition in G.W.O.P.No.68 of 2020 on 29.07.2020 in the District Court, Pudukottai, for guardianship of Ashwin Dev, in which, the petitioner has been shown as respondent.

6. In such view of the matter, we are not inclined to grant custody of the minor child Ashwin Dev to the petitioner at this juncture, especially in the light of the fact that Habeas Corpus Petition has been filed only on 21.08.2020 after Muthukannu (3rd respondent) had filed the guardian petition referred to above in the District Court, Pudukottai.

In view of the above, this Habeas Corpus Petition stands closed. It is open to the parties to workout their remedies before the District Court, Pudukottai. The visitation rights granted by this Court, by order dated 15.09.2020, shall continue until interim order or final order passed by the District Court, Pudukottai in the G.W.O.P.No.68 of 2020.

s/d-
Assistant Registrar(CS VII)

True Copy

Sub-Assistant Registrar

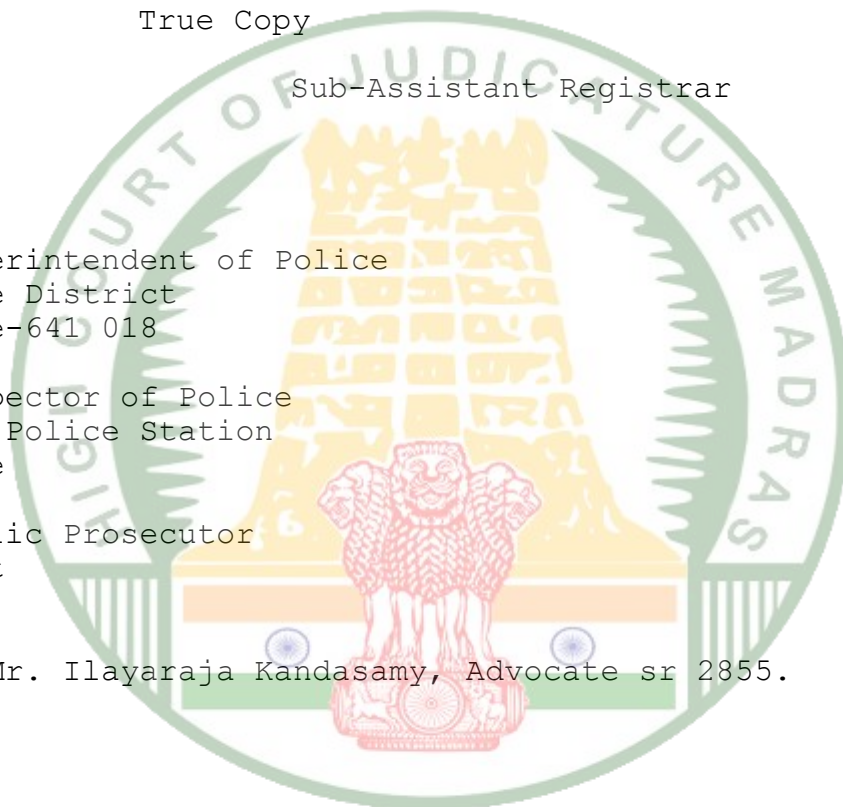
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To

1.The Superintendent of Police
Coimbatore District
Coimbatore-641 018

2.The Inspector of Police
Vadavalli Police Station
Coimbatore

3.The Public Prosecutor
High Court
Madras

+1 CC to Mr. Ilayaraja Kandasamy, Advocate sr 2855.



सत्यमेव जयते H.C.P.No.1471 of 2020

PM(CO)
SP(22/02/2021)

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