



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.08.2021

Coram

The Honourable Mr. Justice P.N.PRAKASH
and
The Honourable Ms. Justice R.N.MANJULA

H.C.P.No.1203 of 2021

S.Anushiya

.. Petitioner

Vs.

1. The Commissioner of Police,
Office of the Commissioner of Police,
Chennai City,
Vepery, Chennai - 600 007.

2. The Inspector of Police,
Adambakkam Police Station,
Chennai.

3. S.Vinothkumar

.. Respondents

Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus directing the 2nd respondent police to produce the petitioner's minor child Udhith, aged about 3 years, born on 06.07.2017, before this Court from the custody of the 3rd respondent and hand over to the petitioner.

For Petitioner : Mr.M.Murali

For RR 1 and 2 : 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 2nd respondent/police to produce the petitioner's



minor child Udhith, aged about 3 years, born on 06.07.2017, before this Court from the custody of the 3rd respondent and hand over to the petitioner.

2. It is the case of the petitioner that she got married to Vinothkumar, third respondent herein, on 04.09.2016 and was blessed with a male child Udhith, aged about 3 years; on account of marital discord, she got estranged from her husband. It is the further case of the petitioner that the third respondent had forcibly taken away the child from her custody on 26.07.2020.

3. It is seen that the third respondent has filed matrimonial proceedings in H.M.O.P.No.54 of 2021 before the Family Court, Trichy seeking restitution of conjugal rights and the petitioner has filed transfer petition in Tr.C.M.P.(MD). No.91 of 2021 before the Madurai Bench of this Court for transfer H.M.O.P.No.54 of 2021 from the file of the Family Court, Trichy to the file of the Family Court, Tanjore.

4. In such view of the matter, we find that this is purely a matrimonial dispute between the parties and also, the custody of the child with the father cannot be per se said to be illegal for the issuance of a writ of habeas corpus.

Hence, this habeas corpus petition stands closed with liberty to the petitioner to work out her remedy before the appropriate Court seeking custody of her child.

Sd/-
Assistant Registrar (CS-VIII)

// True Copy//

Sub Assistant Registrar

nsd

To

1. The Commissioner of Police,
Office of the Commissioner of Police,
Chennai City,
Vepery, Chennai - 600 007.
2. The Inspector of Police,
Adambakkam Police Station,
Chennai.



3. The Public Prosecutor,
High Court, Madras.

WEB COPY

+1cc to Mr.M.Murali, Advocate, S.R.No.39874

H.C.P.No.1203 of 2021

PMK(CO)
SU(01/09/2021)