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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.07.2021

CORAM

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

H.C.P.NO.1093 OF 2021

Hemalatha ...Petitioner

Vs

1.The Superintendent of Police,
Chengalpattu District.

2.The Inspector of Police,
S-6, Shankar Nagar Police Station,
Pammal, Chennai - 600 075.

3.Raju ...Respondents

Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus directing the respondents/police to produce the minor boy child viz., Bhuvan Raaj, aged about 9 years, before this Court from the illegal and unlawful custody of the 3rd respondent and hand over him to the petitioner.

For Petitioner : Mr.K.Gajendiran

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 respondents/police to produce the minor boy child viz., Bhuvan Raaj, aged about 9 years, before this Court from the illegal and unlawful custody of the third respondent and hand over him to the petitioner.

2. It is the case of the petitioner that she got married to Raju, third respondent herein, through whom, she has two

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children viz., Bhuvan Raaj, aged about 9 years and Errica Angel, aged about 4 years. It is the further case of the petitioner that, after marriage, they lived in Bengaluru and on account of marital discord, she was chased away from her matrimonial home and now, she is living with her parents.

3. It is the grievance of the petitioner that the third respondent had illegally kidnapped her son Bhuvan Raaj, aged about 9 years, on 14.12.2020 from her parental home and in this connection, she gave a complaint dated 14.12.2020 to the police and no action was taken.

4. On instructions, the learned Government Advocate (Crl.Side) submitted that on the complaint given by the petitioner, a petition enquiry in C.S.R.No.1055 of 2020 was registered on 14.12.2020 and after enquiry, the same has been closed.

5. We find that the custody of Bhuvan Raaj, aged about 9 years, with his father cannot be said to be per se illegal and therefore, a writ of habeas corpus cannot be issued. It is always open to the petitioner to work out her remedy before the appropriate forum seeking custody of her child.

With the above observation, this habeas corpus petition stands closed.

Sd/-
Assistant Registrar(CS-VII)

//True Copy//

Sub Assistant Registrar

nsd

To

1.The Superintendent of Police,
Chengalpattu District.

2.The Inspector of Police,
S-6, Shankar Nagar Police Station,
Pammal, Chennai - 600 075.

3.The Public Prosecutor,
Madras High Court,
Chennai - 600 104.

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SSD(CO)
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