

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 08.02.2021

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH
AND

THE HONOURABLE Mr.JUSTICE V.SIVAGNANAM

H.C.P.No.2268 of 2020

Sajitha Banu

.. Petitioner

Vs.

1.The Commissioner of Police
Coimbatore District

2.The Inspector of Police
Mettupalayam Police Station
Coimbatore District

3.S.P.Hussain Ahamed

4.Sanofar Parveen

.. Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS to direct the 2nd respondent herein to produce the petitioner's husband viz. Mohammed Abbas Ali, S/o.Zainullaben, aged 34 years and two minor children viz. Afifa Fathima, D/o.Mohammed Abbas Ali, aged about 10 years and Aakif Ahamed,

S/o.Mohammed Abbas Ali, aged about 7 years before this Hon'ble Court and from the custody of the 3rd and 4th respondents and set them at liberty

For Petitioner : Mr.A.P.Sathyamurthy

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

For R3 and R4 : Mr.M.N.Balakrishnan

ORDER

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

This petition has been filed seeking direction to the 2nd respondent to produce the petitioner's husband viz. Mohammed Abbas Ali and their two minor children viz. Afifa Fathima and Aakif Ahamed before this Hon'ble Court, from the custody of the respondents 3 and 4 and set them at liberty.

2. It is the case of the petitioner that she got married to Mohammed Abbas Ali, S/o.Zainullaben and two children were born through him viz. Afifa Fathima, aged 10 years and Aakif Ahamed, aged 7 years. It is the allegation of the petitioner that her husband Mohammed Abbas Ali and children are under the illegal detention of 3rd and 4th respondents from

14.03.2020 onwards. In this connection, on a complaint lodged by the petitioner, a case in Mettupalayam P.S.Crime No.199 of 2020 was registered on 20.03.2020 and that the police have not taken effective steps to secure them.

3. Today, Mr.R.Manikandan, Head Constable, Mettupalayam Police Station, Coimbatore is present before this Court. The police produced Mohammed Abbas Ali and the two children. The petitioner is also present.

4. When enquired, Mohammed Abbas Ali stated that, he was living with the petitioner in door No.52, New Extension Street, Mettupalayam, which belongs to his father; on account of domestic quarrel with the petitioner, he shifted to Tiruppur with the children and is residing in door No.30, Nallur, Thiru Nagar, Kangeyam Salai, Tiruppur in a rented accommodation. The petitioner is now residing with her father in door No.3, T.V.K. 4th Street, Villivakkam, Chennai-4. Since the children are with their father Mohammed Abbas Ali for the last several months, they are not willing to go with their mother, the petitioner herein.

5. We are aware that one can easily influence children of tender age. Therefore, we do not want to forcibly hand over custody of the children to the petitioner. Mohammed Abbas Ali, who is represented by Advocate Mr.M.N.Balakrishnan submitted that he will take the children every Sunday to the house of the petitioner in Villivakkam, drop them at 09.00 a.m. and receive them at 06.00 p.m., until appropriate orders are passed by the competent Court under the Guardians and Wards Act, 1890.

Recording the aforesaid undertaking, this Habeas Corpus Petition stands closed with a direction to Mohammed Abbas Ali to drop the children in the petitioner's house in Villivakkam, every Sunday at 09.00 a.m. and receive them from their in the evening at 06.00 p.m. This arrangement will hold good, until appropriate orders are passed by the competent Court under the Guardians and Wards Act, on the petitioner or her husband Mohammed Abbas Ali, approaching the said Court.

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[P.N.P., J.] [V.S.G., J.]
08.02.2021

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To

1.The Commissioner of Police
Coimbatore District

2.The Inspector of Police
Mettupalayam Police Station
Coimbatore District

3.The Public Prosecutor
High Court, Madras.

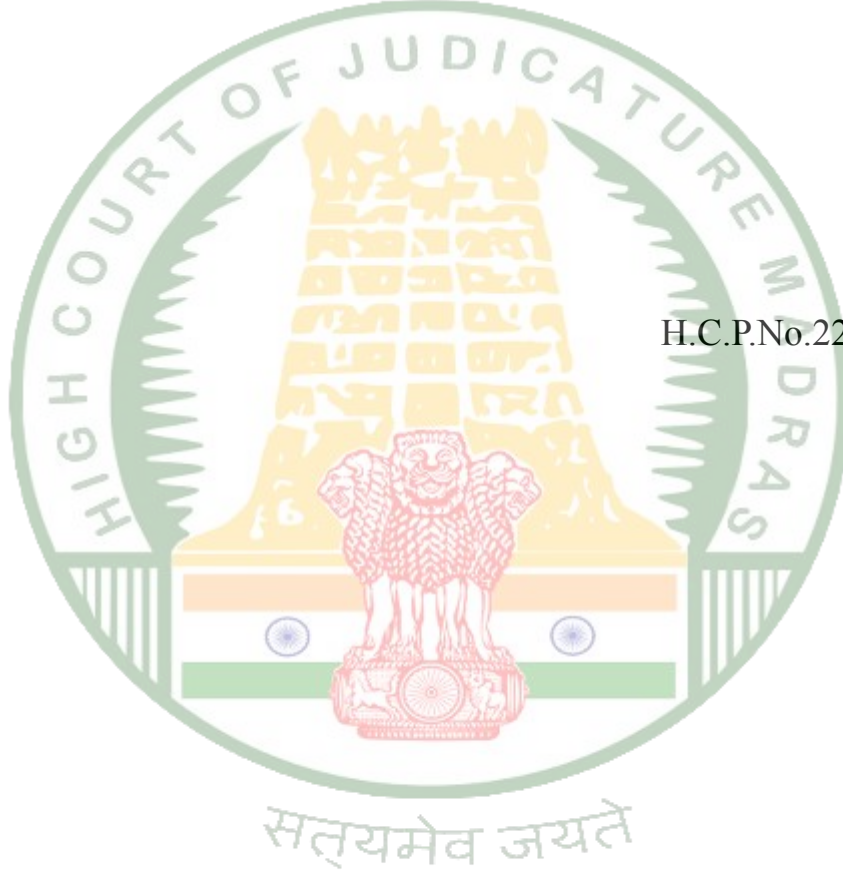


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