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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.10.2021

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH
AND
THE HONOURABLE MS.JUSTICE R.N.MANJULA

H.C.P.NO.1312 OF 2021

Saranya Chandrasekar

... Petitioner

.Vs.

1. The Commissioner of Police,
Greater Chennai Police,
No.132, Commissioner Office Building,
EVK Sampath Road,
Vepery, Chennai - 600 007.

2. The Inspector of Police,
Chitalapakkam Police Station,
Jothi Nagar, Chitalapakkam,
Chennai - 600 064.

3. Gurumurthy
4. Satya
5. Vengadesan

... Respondents

PRAYER:-

Habeas Corpus Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus directing the respondents to produce minor Jai Adithya, aged 4 years, before this Court and hand over the custody to the petitioner herein forthwith.

For Petitioner : M/s.Rohini Ravikumar

For Respondents : Mr.R.Muniyapparaj
Additional Public Prosecutor
[R1 & R2]

Mr.B.Gurunathan [R3]



O R D E R

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

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This petition has been filed seeking a direction to the respondents to produce minor Jai Adithya, aged 4 years, before this Court and hand over his custody to the petitioner herein forthwith.

2. For the sake of convenience, the parties are referred to by their respective names.

3. On 07.09.2021, we passed the following order:

'On 01.09.2021, we passed the following order:

'This petition has been filed seeking a direction to the respondents to produce minor Jai Adithya, aged 4 years, before this Court and hand over his custody to the petitioner herein forthwith.

2. For the sake of convenience, the parties are referred to by their respective names.

3. On 26.08.2021, we passed the following order:

'It is the case of the petitioner that she got married to Gurumurthy, third respondent herein, on 09.12.2016 and through the wedlock, she has a child viz., Jai Adithya, aged about four years; on account of marital discord between them, she has filed a petition for divorce in the Family Court, Chennai and the same is yet to be numbered; while that being so, the third respondent illegally snatched away the child from her custody on 14.08.2021 and thereafter, their whereabouts are not known. Therefore, the petitioner has filed the present habeas corpus petition.

2. Today P.Renukadevi, (Mobile No.94981 09031) Women Grade-I 39544, S-12, Chitalapakkam Police Station, Chennai, is present.

3. On instructions, Mr.R.Muniyapparaj, learned Government Advocate (Cr1.Side)



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submitted that on a complaint given by the petitioner, a petition enquiry in C.S.R.No.374 of 2021 was conducted and when the third respondent was summoned to the police station, he refused to come and instead, sent a letter dated 16.08.2021 to the police stating that they should not arrest him as this is purely a matrimonial matter.

4. In such view of the matter, this Court issues a direction to the second respondent/ police to restore the child viz., Jai Adithya, aged about four years, to the custody of the petitioner and report to this Court on 01.09.2021.

Post the matter on 01.09.2021.'

4. Today, Mr.R.Ranjithkumar, S12 Chitalapakkam Police Station (Mobile No.98406 19597) and Ms.P.Renukadevi, (Mobile No.94981 09031) Women Grade-I 39544, S-12, Chitalapakkam Police Station, Chennai, are present.

5. Gurumurthy entered appearance through Mr.R.Rajaraman (Enrl.No.1704/2003), learned counsel, and appeared before us with the child.

6. When we enquired Gurumurthy, he stated that on 14.08.2021 Saranya came with a person and stated that she is leaving the house with the child and going to initiate divorce proceedings. As he is very much attached with the child, he carried the child away and was staying in the place of his friends and relatives. He stated that his entire life is centered around the child.

7. We also saw that the child is very much attached to him. However, when Saranya approached the child, the child went to her and was found to be happy in her company.

8. The child is hardly four years of age and in the facts and circumstances of the case, we are of the opinion that interests of justice will be served if the custody of the child is given to Saranya with visitation rights to Gurumurthy. This arrangement is agreed to by both the learned counsel for Saranya and learned counsel for Gurumurthy.



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9. Saranya is at present residing at No.40/51, Brindhavan Flat, Gangaiaamman Koil Street, Lakshmipuram, Thiruvanaaimyur, Chennai - 600 041 and her mobile number is 97105 78898 and e-mail ID is saranya091989@yahoo.com.

We handed over the custody of the child to Saranya today in the open Court. For further orders with regard to visitation rights, post this matter on 07.09.2021.'

2. As regards the visitation, Gurumoorthy has filed an affidavit dated 07.09.2021. In paragraph No.6, he has stated as follows:

'6. I respectfully submit that I am agreeing for the custody of the child to be left with the petitioner in the Habeas Corpus Petition without prejudice to my right to file appropriate application for custody in the concerned family court. However, in the meanwhile I request this Honourable court to permit me to visit my son Jai Aditya every week at 10 a.m. on every Saturday and take him to my place and to return the child on the next day (Sunday) on or before 5 p.m. I assure and undertake to this Honourable Court that I would promptly return the child without any delay.'

3. In view of the above, we permit Gurumurthy (third respondent) to take the child viz., Jai Adithya from the residence of the petitioner at No.40/51, Brindhavan Flat, Gangaiaamman Koil Street, Lakshmipuram, Thiruvanaaimyur, Chennai - 600 041, on every Saturday at 10.00 a.m. and drop back the child at 06.00 p.m. immediately on the succeeding Sunday at the residence of the petitioner.

Post on 05.10.2021.'

4. Today, Gurumurthy (third respondent) is present before this Court.

5. Learned counsel for Saranya and the learned counsel for Gurumurthy submitted that the order of this Court dated 07.09.2021 is being complied with in letter and spirit by both the parties.



6. In view of the above, no further orders are necessary in this case. Hence, this Habeas Corpus Petition stands closed with liberty to the parties to approach the jurisdictional Court for appropriate relief like guardianship and custody of the child. Until such time, the parties shall comply with our order dated 07.09.2021. It is open to the jurisdictional Court to pass appropriate orders modifying our order dated 07.09.2021 and decide about the custody of the child without in any manner influenced by the observation made by this Court.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

gm

To

1. The Commissioner of Police,
Greater Chennai Police,
No.132, Commissioner Office Building,
EVK Sampath Road,
Vepery, Chennai - 600 007.
2. The Inspector of Police,
Chitalapakkam Police Station,
Jothi Nagar, Chitalapakkam,
Chennai - 600 064.
3. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.B.Gurunathan, Advocate, S.R.No.52078

H.C.P.NO.1312 OF 2021

NMI (CO)
PBS/28/10/2021