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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 13.09.2021

CORAM

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

H.C.P.NO.1356 OF 2021

R.Anushiya .. Petitioner

Vs.

1. The Superintendent of Police
Mannargudi
Thiruvarur District

2. The Inspector of Police
All Women Police Station-Mannargudi
Mannargudi Taluk
Thiruvarur District 614 015

3. K.Rajasekar .. Respondents

Prayer:-

Petition filed under Article 226 of the Constitution of India praying to issue a writ of Habeas Corpus directing the respondent police to produce the corpus of the petitioner's minor child Kavin, aged 1 year, by rescuing him from the illegal custody of the 3rd respondent herein and produce before this Court and hand over to the petitioner.

For Petitioner : Mr.K.Jayaraman

For R1 & R2 : Mr.R.Muniyapparaj
Govt. Advocate (Crl. Side)

For R3 : Mr.R.Gokulakrishnan



O R D E R

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

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According to the petitioner, she got married to the 3rd respondent on 06.06.2019 and through the wedlock, she has a male child viz., Kavin, who was born on 20.03.2020.

2. It is her allegation that she was subjected to harassment by her husband and his family members, on account of which, she attempted to commit suicide, however, on the advice of her parents, she did not commit suicide. It is her further allegation that on 22.04.2021, her husband quarreled with her and forcibly threw her out of the matrimonial home, retaining the child with him. Hence, she has filed the present petition seeking custody of the child.

3. On notice, the 3rd respondent entered appearance through Mr.R.Gokulakrishnan, Advocate. Mr.Gokulakrishnan submitted that the petitioner went missing from 10.04.2021, leaving the child with the 3rd respondent and had eloped with one Arun Kumar. In this regard, the 3rd respondent gave a complaint, based on which, a case in Mannargudi Town P.S.Crime No.527 of 2021 for "woman missing" was registered by the police and the petitioner was secured from the house of the said Arun Kumar, four days later. After that, the petitioner is said to have given a statement to the police that she is not willing to join with her husband and left the child also in his custody. Thereafter, she has filed the present petition.

4. We perused the FIR in Crime No.527 of 2021, in which, it is clearly stated that the child is with the 3rd respondent. We do not want to go into disputed questions of fact in this habeas corpus petition.

5. In the facts and circumstances of the case, we are of the opinion that the child is not in the illegal custody of the 3rd respondent for issuance of a writ of habeas corpus.

In the result, this petition is closed, with liberty to the petitioner to approach the appropriate Court, for seeking custody of the child.

Sd/-

Assistant Registrar(CS II)

//True Copy//

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Sub Assistant Registrar



To

1. The Superintendent of Police
Mannargudi
Thiruvarur District

2. The Inspector of Police
All Women Police Station-Mannargudi
Mannargudi Taluk
Thiruvarur District 614 015

3. The Public Prosecutor
High Court, Madras

+1cc to Mr.R.Gokulakrishnan, Advocate, S.R.No.46576

H.C.P.No.1356 of 2021

PVS (CO)
PM/07/10/2021