

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.01.2021

Coram

The Hon'ble Mr. Justice P.N.PRAKASH
and
The Hon'ble Mr. Justice V.SIVAGNANAM

H.C.P. No. 2025 of 2020

Swetha Sonwani

.. Petitioner

Vs.

1.The Superintendent of Police,
Officer of Superintendent of Police,
Kancheepuram District.

2.The Inspector of Police,
Sadras Police Station, Kalpakkam.

3.Durgeshwar Karley

.. Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of habeas corpus directing the first and second respondent to produce the body of the person, the petitioner Minor Child Hiral Karley, D/o.Durgeshwar Karley, who is aged about 2 years before this Court from the custody of the third respondent and to hand to the petitioner.

For Petitioner .. Mr.J.N.Naresh Kumar

For Respondents .. Mr.R.Prathap Kumar
Addl. Public Prosecutor
for R1 and R2
Mr.P.Magesh for R3

ORDER

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

Seeking a direction to the first and second respondents to produce the body of the person, the petitioner - minor child Hiral Karley, D/o.Durgeshwar Karley, who is aged about 2 years, before this Court from the custody of the third respondent and to hand over to the petitioner, the present habeas corpus petition has been filed.

2. The petitioner is well educated (Ph.D) and is presently employed as a Scientist in IGCAR, Kalpakkam. The petitioner hails from Raipur in Chattisgarh. She got married to Durgeshwar Karley in the year 2015 and the couple is blessed with a girl child - Hiral Karley, which was born on 03.10.2018 in Bilaspur.

3. The petitioner's husband Durgeshwar Karley is also well educated and has completed Ph.D. The petitioner and her husband lived for some time along with their child in Kalpakkam and even according to the petitioner, in para-5, she has stated that her husband had taken the child to their native place and refused to hand over the child to her.

4. Today, Mr.Durgeshwar Karley, is present before this Court along with the child.

5. On enquiry, we found that with full knowledge and consent of the petitioner, the child was taken by Durgeshwar Karley from Chennai to Raipur on 12.08.2020 by Indigo Flight. He further stated that the petitioner's mother Ramkali Sonwani also accompanied them along with the child from Chennai to Raipur. In support of this, he produced the air-tickets which bear the names of Durgeshwar Karley, Ramkali Sonwani and the infant Hiral Karley.

6. Learned counsel for the petitioner submitted that the petitioner has also initiated action under the Guardians and Wards Act, for the custody of the child.

7. In such view of the matter, it cannot be stated that the child is in the illegal custody of the third respondent/ Durgeshwar Karley and it is open to the parties to work out the remedy in the manner known to law before the appropriate forum.

8. The habeas corpus petition stands closed accordingly.

Sd/-
Asst.Registrar (CS VI)

/true copy/

Sub Asst. Registrar

ssm

To

1.The Superintendent of Police,
Officer of Superintendent of Police,
Kancheepuram District.

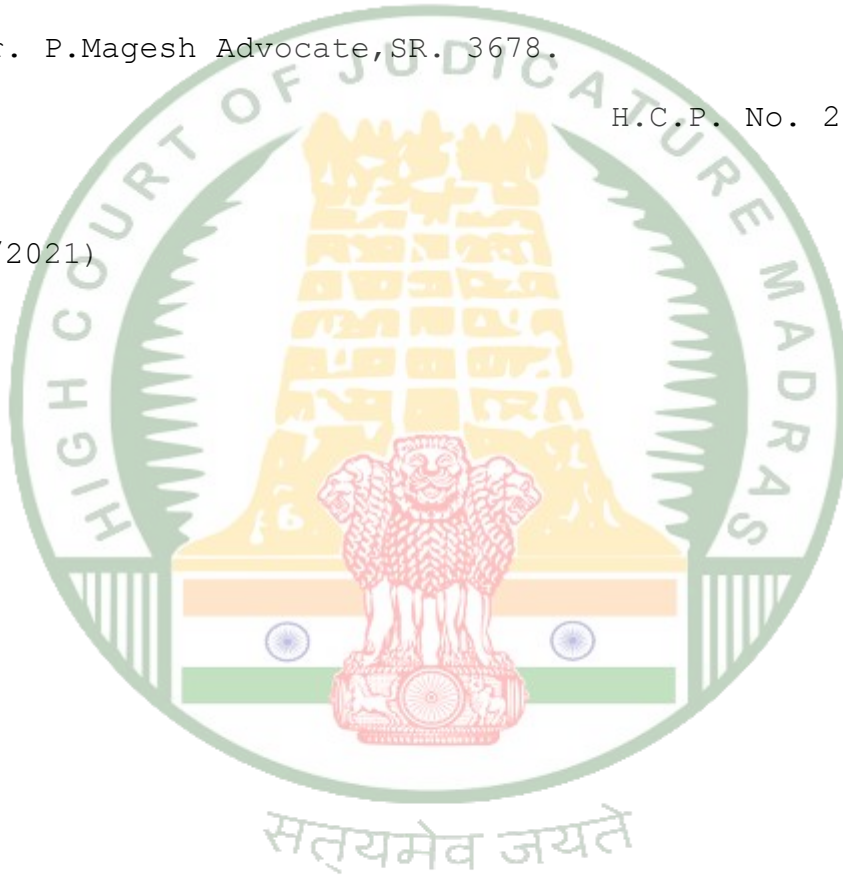
2.The Inspector of Police,
Sadras Police Station, Kalpakkam.

3.The Public Prosecutor,
High Court, Madras.

+1cc to Mr. P.Magesh Advocate, SR. 3678.

H.C.P. No. 2025 of 2020

MGR (CO)
NRA (09/02/2021)



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