

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.01.2021

Coram

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

H.C.P. No.2292 of 2020

D.Reghunath

.. Petitioner

Vs.

1.The State rep. by
Superintendent of Police,
Chengalpet District, Chengalpet.

2.The Inspector of Police,
E4 Police Station, Kalpakkam,
Chengalpet District.

3.Panchatcharam

.. Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of habeas corpus directing the second respondent to produce the petitioner's minor children 1.R.Sharenasri, aged 8 years and 2.R.Sidharth, aged 5 years before this Court from the custody of third respondent and handover the custody to the petitioner herein.

For Petitioner .. Mr.R.Sankarasubbu

For Respondents .. Mr.R.Prathap Kumar,
Addl. Public Prosecutor
for R1 and R2
Mr.V.S.Senthilkumar for R3

ORDER

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

Seeking a direction to the second respondent to produce the petitioner's minor children 1.R.Sharenasri, aged 8 years and 2.R.Sidharth, aged 5 years before this Court from the custody of third respondent and to handover the custody to the petitioner herein, the present habeas corpus petition has been filed.

2. It is the case of the petitioner that he was married to

Sumitra on 23.05.2012 and through the wedlock, the couple had two children, Sharenasri and Sidharth. Sumitra died in a fire accident, while cooking on 04.05.2020, in connection with which, a case in Crime No. 365 of 2020 was registered under Section 174 Cr.P.C. After the incident, the children were forcibly taken away by his parents-in-law and therefore, the present petition has been filed seeking the aforesaid relief.

3. Today, Mr.S.Sekar, SSI, E-4 Kalpakkam Police Station, produced the children and the petitioner's parents-in-law.

4. In the opinion of this Court, the two minor children should be brought up by their father, who is the natural guardian especially, in the light of the fact that the investigation conducted in Crime No.365 of 2020 does not show the involvement of the petitioner in the offence and that Sumitra died when her nighty accidentally got fire, while she was cooking.

5. This court perused the dying declaration of Sumitra, which also does not implicate the petitioner in any way. Therefore, the custody of the two minor children is handed over to the petitioner in the open Court. The third respondent and his wife, namely, the parents-in-law of the petitioner will have unlimited access to the children in the petitioner's house. Of course, they cannot forcibly take away the children from the petitioner. The local Child Welfare Committee is directed to monitor this case and if it is found that the petitioner is not taking proper care to bring up the children, it is always open to the Child Welfare Committee, Chengalpet to approach this Court for modification of this order.

6. In view of the above, the habeas corpus petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

ssm

To

1.The Superintendent of Police,
Chengalpet District,
Chengalpet.

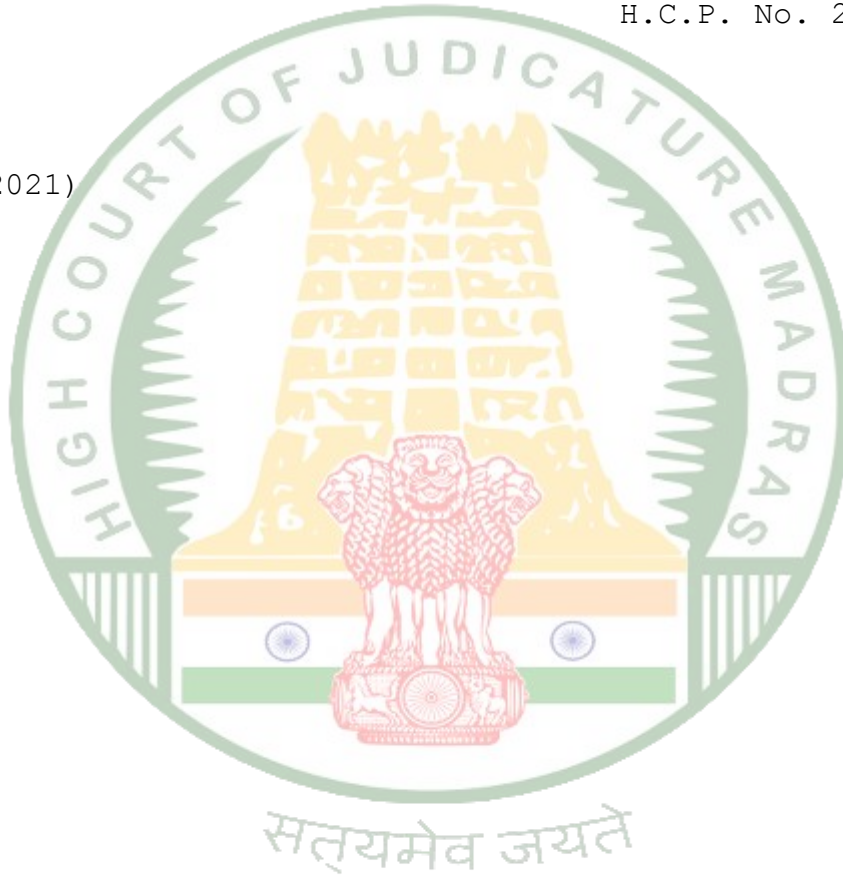
2.The Inspector of Police,
E4 Police Station, Kalpakkam,
Chengalpet District.

3.The Child Welfare Committee,
Chengalpet.

4.The Public Prosecutor,
High Court, Madras.

H.C.P. No. 2292 of 2020

SR II(CO)
GN(01/02/2021)



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