



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.11.2021

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH
AND
THE HONOURABLE MRS.JUSTICE R.HEMALATHA

H.C.P.NO.1463 OF 2021

K.Amutha
D/o.Kalimuthu

.. Petitioner

Vs.

State Rep. by

1. The Superintendent of Police,
Nagapattinam,
Nagapattinam District.
2. The Inspector of Police,
All Women Police Station-Vedharanyam,
Vedharanyam,
Nagapattinam District.
3. A.Veerappan
S/o.Ayyakannu
4. A.Mullaiyammal
D/o.Ayyakannu

.. Respondents

Habeas Corpus Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus directing the respondents herein to produce the petitioner's son Purushothaman (4 years), who is illegally detained by the respondents 3 and 4 before this Court and hand over him to the petitioner.

For Petitioner : Mr.R.Jayaprathap
For Respondents: Mr.R.Muniyapparaj
Additional Public Prosecutor

O R D E R

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

This petition has been filed seeking a direction to the respondents herein to produce the petitioner's son Purushothaman, aged 4 years, who is illegally detained by the respondents 3 and 4 before this Court and hand over him to the petitioner.



2. It is the case of the petitioner that she got married to the third respondent on 05.09.2010 and through the wedlock, she has a child viz., Purushothaman, aged 4 years. On account of marital discord, the petitioner got separated from her husband. However, she trusted her husband and left the child in his custody. Now, it is the grievance of the petitioner that her husband is not disclosing the whereabouts of her child. After giving a complaint to the police, the petitioner has filed the present petition.

3. We ordered notice to the respondents 3 and 4. Mr.K.Govi Ganesan [Enrl.No.1087/1990] entered appearance for the respondents 3 and 4 and submitted that an ex parte order of divorce has been granted in H.M.O.P.No.116 of 2017 on 11.08.2017 by the Sub Court, Nagapattinam, dissolving the marriage of the petitioner with the third respondent. However, learned counsel for the petitioner pleaded total ignorance of the order of divorce.

4. Be that as it may, learned counsel for the respondents 3 and 4 submitted that the third respondent has filed a petition under the Guardian and Wards Act on 10.03.2021 before the Principal District Court, Nagapattinam against the petitioner, which is not yet numbered and it is in SR stage viz., G.W.O.P.Sr.No.137 of 2021. Learned counsel further stated that the child Purushothaman is very much safe in the custody of the third respondent in his residence at Nagapattinam.

5. Recording the same, we direct the petitioner and the third respondent to appear with the child before the Secretary, District Legal Services Authority, Nagapattinam, District Court Building, on 07.12.2021 at 10.30 a.m. The Secretary, District Legal Services Authority, Nagapattinam, District Court Building, shall permit the petitioner to have access to the child and thereafter, the third respondent shall take back the child with him. It is open to the petitioner to enter appearance in G.W.O.P.Sr.No.137 of 2021 or inter alia file a fresh petition for guardianship and custody of the child, if so advised.

With the above direction, this Habeas Corpus Petition is closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

gm



To

1. The Secretary,
District Legal Services Authority,
District Court, Nagapattinam,
2. The Superintendent of Police,
Nagapattinam,
Nagapattinam District.
3. The Inspector of Police,
All Women Police Station-Vedharanyam,
Vedharanyam,
Nagapattinam District.
4. The Public Prosecutor,
High Court, Madras.

+lcc to Mr.K.Goviganesan, Advocate, S.R.No.61662
+lcc to Ms.G.Rajathi, Advocate, S.R.No.61421

H.C.P.No.1463 of 2021

GJ(CO)
KKV/29/11/2021