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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.10.2021

CORAM

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

H.C.P.NO.1507 OF 2021

T.Kanimozhi

...Petitioner

Vs.

1.The State of Tamil Nadu
represented by its
Superintendent of Police,
Erode, Erode District - 638 001.

2.The Inspector of Police,
Ammapettai Police Station,
Erode - 638 311.
Erode District.

3.Dr.R.Sudhakar

4.Anandan

5.Anuradha

6.Revathi

7.Poongothai

8.Boobendran

9.Dhilip Saran

10.Sekar

Habeas Corpus Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus directing the second respondent herein to produce the two minor children (1) S.Pranav Ram (8 years) and S.Rakshith Ram (1½ years) from the illegal custody of respondents 3 to 10 and hand over to the petitioner.



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For Petitioner : Mr.A.V.Arun

For Respondents : Mr.R.Muniyapparaj
Additional Public Prosecutor [R1 & R2]
Mr.G.Jeremiah [R3]

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 second respondent herein to produce the two minor children (1) S.Pranav Ram (8 years) and S.Rakshith Ram (1½ years) from the illegal custody of respondents 3 to 10 and hand over to the petitioner.

2. On 28.09.2021, we passed the following order:

'The second respondent/police is directed to produce Sudhakar, third respondent herein and the two children viz., Pranav Ram, aged about 8 years and Rakshith Ram, aged about 1 ½ years, before this Court on 04.10.2021.

2. The learned Additional Public Prosecutor submitted that on a complaint given by Pavunayal, mother of the petitioner herein, a case in Ammapet Police Station Crime No.291 of 2021 has been registered on 14.09.2021 under Sections 294(b) and 308 IPC against the third respondent and therefore, the third respondent, fearing arrest, is in abscondance and has filed an application in CrI.M.P.No.1666 of 2021, for anticipatory bail before the Principal District Judge, Erode, which is coming up for hearing on 29.09.2021 and hence, it will be very difficult for the police to secure the third respondent and produce him and the two children before this Court on 04.10.2021.

3. We see sufficient force in the submission made by the learned Additional Public Prosecutor. In order to strike a balance and ensure that the children are being produced before this Court, we direct the second respondent/police not to arrest the third respondent in Ammapet Police Station Crime No.1666 of 2021, until further orders of this Court, so as to enable the third respondent to appear before this Court with the two children on 04.10.2021. The petitioner shall also be present before this Court on that day.

Post the matter on 04.10.2021.'

3. Today, Mr.M.Krishnamoorthy, Inspector of Police, Ammapet Police Station, Erode District, is present. Kanimozhi is present. Dr.Sudhakar brought the two children to this Court.



4. Mr.G.Jeremiah, learned counsel, entered appearance for Dr.Sudhakar and he was furnished with the typed set of papers and affidavit of Kanimozhi.

5. When Kanimozhi called the two children viz., Pranav Ram and Rakshith Ram, the younger one Rakshith Ram recognised her and went immediately to her without demur. However, Pranav Ram, the elder one, created a ruckus in the Court saying that he would not go to his mother and that he would go only to his father.

6. We are of the view that if the parties are sent for mediation, there is every likelihood of there being rapprochement between them. Therefore, we direct Dr.Sudhakar and Kanimozhi to appear before the learned Principal District Judge, Erode, on 07.10.2021 in Crl.M.P.No.1666 of 2021 and on their appearance, the learned Principal District Judge, Erode, shall direct them to the Mediation Centre, Erode, for working out an amicable settlement between the couple. Until then, Pranav Ram will be in the custody of Dr.Sudhakar and Rakshith Ram will be in the custody of Kanimozhi.

7. In the event of failure of mediation proceedings, the learned Principal District Judge, Erode, shall pass appropriate orders on merits in Crl.M.P.No.1666 of 2021 and it is open to the parties to approach the appropriate Court seeking custody and guardianship of the children. We hope that both the parties will co-operate in the best interest of the two children and reunite. The police shall not arrest Dr.Sudhakar till the disposal of Crl.M.P.No.1666 of 2021 by the learned Principal District Judge, Erode. The entire mediation process shall be completed within a period of two months from today.

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

Sd/-
Assistant Registrar(CO)

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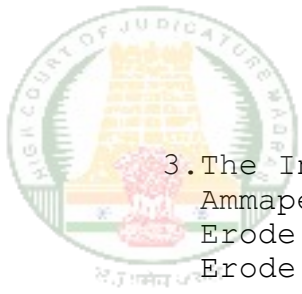
Sub Assistant Registrar

gm

To

1.The Principal District Judge,
Erode.

2.The Superintendent of Police,
Erode,
Erode District - 638 001.



3.The Inspector of Police,
Ammapettai Police Station,
Erode - 638 311.
Erode District.

4.The Public Prosecutor,
High Court, Madras.

Copy To

Mediation Centre,
Erode.

+1cc to Mr.A.V.Arun, Advocate, S.R.No.51833

H.C.P.No.1507 of 2021

MG(CO)
RVM(08/10/2021)