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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.1572 of 2021

P.Nagarajan

... Petitioner

Vs.

1.The Commissioner of Police,
Greater Chennai,
Chennai.

2.The Inspector of Police,
K-5, Peravallur Police Station,
Peravallur, Chennai.

3.Bhuvaneswari @ Vinotha

... Respondents

Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus directing the first respondent herein to produce the minor girl Jasmitha, aged about 10 years, daughter of the petitioner herein, who was unlawfully confined under the custody of the third respondent herein before this Court and hand over her custody to the petitioner P.Nagarajan.

For Petitioner : Mr.D.Chandrakanth

For Respondents : Mr.R.Muniyapparaj
Addl. Public Prosecutor

ORDER

[Made by P.N.PRAKASH, J.]

This habeas corpus petition has been filed seeking to direct the first respondent herein to produce the minor girl Jasmitha, aged about 10 years, daughter of the petitioner herein, who was unlawfully confined under the custody of the third respondent herein, before this Court and hand over her custody to the petitioner.



2. It is the case of the petitioner that he got married to Bhuvaneshwari @ Vinodha, third respondent and through the wedlock, he has a daughter Jasmitha, who is now 10 years old. It is the further case of the petitioner that he got estranged from his wife and so, he has filed F.C.O.P.No.119 of 2015 for divorce and also filed G.W.O.P.No.12 of 2019 for custody of his daughter Jasmitha.

3. According to the petitioner, G.W.O.P.No.12 of 2019 was allowed by the District Court, Vellore, on 04.03.2021, despite which, the third respondent is not giving custody of Jasmitha to him and therefore, he has filed the present habeas corpus petition.

4. In our considered opinion, the custody of Jasmitha with her mother, third respondent herein, is not per se illegal. That apart, the petitioner should have approached the District Court, Vellore, in G.W.O.P.No.12 of 2019 for execution and hence, this habeas corpus petition is not maintainable.

Recording the same, this habeas corpus petition stands closed.

Sd/-
Assistant Registrar (CS-IV)

// True Copy //

Sub Assistant Registrar

nsd

To

- 1.The Commissioner of Police,
Greater Chennai,
Chennai.
- 2.The Inspector of Police,
K-5, Peravallur Police Station,
Peravallur, Chennai.
- 3.The Public Prosecutor,
Madras High Court,
Chennai - 600 104.

H.C.P.No.1572 of 2021

SMI(CO)
B.VC (27/10/2021)