



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.11.2021

Coram

The Honourable Mr. Justice P.N.PRAKASH
and
The Honourable Mrs. Justice R.HEMALATHA

H.C.P.No.1948 of 2021

Sangeetha

.. Petitioner

Vs.

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

2.State represented by
The Inspector of Police,
Karuppur Police Station,
Karuppur, Salem District.

3.K.Theerthamalai

.. Respondents

Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus direct the 2nd respondent to produce the body of the petitioner's son viz., Sharwick (detenu), aged about 1½ years, before this Court and hand over to the petitioner herein.

For Petitioner : Mr.K.Prabhakaran

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



ORDER

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

This habeas corpus petition has been filed seeking to direct the 2nd respondent to produce the body of the petitioner's son viz., Sharwick (detenu), aged about 1½ years, before this Court and hand over to the petitioner.

2. It is the case of the petitioner that she got married to Theerthamalai, third respondent herein and through the wedlock, she has a male child Sharwick (15.05.2020). It is the further case of the petitioner that on account of marital discord, she got estranged from her husband and on the last week of October 2021, her husband forcibly took away the custody of her son Sharwick and he is not permitting her access at all. On these allegations, the petitioner has filed the present habeas corpus petition.

3. Today, Theethamalai, third respondent and the child Sharwick were produced before this Court via video conferencing by G.Raja, Sub-Inspector of Police, from Karuppur Police Station, Salem.

4. On instructions, the learned Additional Public Prosecutor submitted that the petitioner has suppressed several facts in her affidavit. He further submitted that the petitioner has left the company of Theerthamalai, third respondent, on 04.08.2021 and thereafter, her whereabouts were not known; therefore, on a written complaint given by Theerthamalai, third respondent, a case in Karuppur Police Station Crime No.226 of 2021 was registered for 'woman missing' on 05.08.2021. It is his further submission that the petitioner had not taken the child Sharwick with her and he was in the custody of Theerthamalai, third respondent; during the course of investigation in Crime No.226 of 2021, the police secured the petitioner on 08.08.2021 as she had eloped with one Sanjay at Namakkal; the petitioner did not want to go either with Theerthamalai, third respondent or with her parents and therefore, the police produced the petitioner before the Judicial Magistrate (Additional Mahila) Court, Salem, on 09.08.2021; before the learned Magistrate, the petitioner appears to have stated that she does not want go with Theerthamalai, third respondent and instead, go with her parents.

5. Thus, it appears that the story of the petitioner that her husband had forcibly taken away the child from her in the last week of October 2021 is untrue. In fact, it is the



petitioner, who had left the child with her husband and had eloped with one Sanjay.

In such view of the matter, a writ of habeas corpus petition cannot be issued and therefore, the present habeas corpus petition stands closed with liberty to the petitioner to work out her remedy in the manner known to law.

Sd/-

Assistant Registrar(CS-VIII)

// True Copy //

Sub Assistant Registrar

nsd

To

- 1.The Superintendent of Police,
Salem, Salem District.
- 2.The Inspector of Police,
Karuppur Police Station,
Karuppur, Salem District.
- 3.K.Theerthamalai,
S/o.Kaliyappan,
No.4/69, Mariyamman Kovil Street,
Sengakaradu, Thathiyangarapatti,
Omalur Taluk,
Salem District.
- 4.The Public Prosecutor,
High Court, Madras.

H.C.P.No.1948 of 2021

KSM(CO)
CB(15/12/2021)