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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.12.2021

Coram

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

H.C.P.No.2074 of 2021

Bhuvaneshwari

.. Petitioner

Vs.

1. The Inspector of Police,
W-7, All Women Police Station,
Anna Nagar,
Chennai - 102.

2. Prasanth

.. Respondents

Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus directing the 1st respondent herein to produce the body of the petitioner's son P.Praneeth Prabhu, aged 7 years, S/o.Prasanth, before this Court and set him at liberty.

For Petitioner : Mr.M.Mohamed Riyas

For R1 : Mr.R.Muniyapparaj,
Addl. Public Prosecutor

For R2 : Mr.S.Suresh

ORDER

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

This habeas corpus petition has been filed seeking a direction to the 1st respondent herein to produce the body of the petitioner's son P.Praneeth Prabhu, aged 7 years, S/o.Prasanth, before this Court and set him at liberty.



2. It is the case of the petitioner that she got married to the second respondent on 15.02.2015 and through the wedlock, they have a child Praneeth Prabhu, who was born on 16.05.2016 and who is now aged around 6 years. According to the petitioner, she got estranged from her husband on account of marital discord and she was living with her child separately. While so, on 05.11.2021, her husband forcibly took away the child from her and thereafter, the whereabouts of the child was not known to her. Therefore, she has filed the present petition.

2. On 15.12.2021, we passed the following order:

"Tmt.M. Devasena, Sub Inspector of Police and Tmt. Mangalalakshmi, Women Head Constable, both attached to W.7 All Women Police Station, Anna Nagar, Chennai-40, are present before this Court.

2. Mr.R.Muniyapparaj, learned Additional Public Prosecutor takes notice for the first respondent.

3. Private notice to the second respondent returnable by 22.12.2021.

4. The second respondent and the child are directed to be produced before this court on that day.

Post on 22.12.2021."

3. Today, Ms.P.Shanthi Devi [Mobile No.98401 06030], Inspector of Police, W-7, All Women Police Station, Anna Nagar, is present. She produced the second respondent and the child before this Court. The petitioner is also present.

4. Heard Mr.M.Mohamed Riyas, learned counsel for the petitioner and Mr.R.Muniyapparaj, learned Additional Public Prosecutor appearing for the first respondent/State. When we asked the second respondent as to whether he has engaged any Advocate, he stated that he does have one and so, we appointed Mr.Suresh, as the learned counsel for the second respondent.

5. When enquired by us, the second respondent stated that the petitioner had left the child with him and had gone away after a quarrel and since then, he is taking care of the child.

6. This is refuted by the petitioner, who stated that the second respondent was living in Anna Nagar till recently and suddenly, he has shifted his residence to Chidambaram and taken the child away from her.

7. We are of the view that it will be in the fitness of things, if the child is handed over to the petitioner and accordingly, the child is handed over to the petitioner.



8. It is open to the second respondent to file an appropriate petition for guardianship and custody of the child, if so advised. Until then, visitation rights is granted to the second respondent to visit the child during weekends in the residence of the petitioner on prior intimation and the petitioner shall give free access to the petitioner. However, the second respondent cannot forcibly take away the child from the custody of petitioner.

With the above directions, this habeas corpus petition stands closed.

Sd/-
Assistant Registrar (CS-IX)

//True Copy//

Sub Assistant Registrar

nsd

To

1. The Inspector of Police,
W-7, All Women Police Station,
Anna Nagar,
Chennai - 102.
2. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.S.Suresh, Advocate, S.R.No.69471

H.C.P.No.2074 of 2021

UM(CO)
SU(27/01/2022)