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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.12.2021

Coram

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

H.C.P.No.2116 of 2021

Salamathul Hafila
D/o.Imamuddin

.. Petitioner

Vs.

1. The State represented by
The Commissioner of Police,
Office of the Commissioner of Police,
Vepery, Chennai - 600 007.
2. The State represented by
The Inspector of Police,
All Women Police Station,
Avadi, Chennai - 600 026.
3. R.Raja Mohammed
S/o.Rahamathulla

.. Respondents

Habeas Corpus Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus directing the second respondent to secure and produce the petitioner's minor son, namely, R.Mohamed Ukkasaha, aged about 4 years, before this Court, who is now in the illegal custody of the third respondent herein and handover to the petitioner's custody.

For Petitioner : Mr.D.Senthil Kumar

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

Ms.K.Kristina Dhanarani [E.No.2636/15]
for M/s.Majestic Law Firm [R3]



O R D E R

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

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This petition has been filed seeking a direction to the second respondent to produce the petitioner's minor son, namely, R.Mohamed Ukkasaha, aged about 4 years, before this Court, who is now in the illegal custody of the third respondent herein and handover to the petitioner.

2. It is the case of the petitioner that she got married to the third respondent and through the wedlock, a child viz., Mohamed Ukkasha was born to them on 14.07.2017. It is the further case of the petitioner that their matrimonial life ran into rough weather resulting in they getting divorce on 07.08.2021 before the Jamath. It is represented by the petitioner that on 07.08.2021, the third respondent has forcibly taken away the child from her custody. On these allegations, the present petition has been filed.

3. Today, Ms.L.Bennyammal, WHC - 36155, W-29 All Women Police Station, Avadi, is present. The third respondent along with the child is present. The petitioner is also present.

4. We found that the child was refusing to go with the petitioner. That apart, it is seen that guardian original petition proceedings have already been initiated by the third respondent before the Principal District and Sessions Court, Tiruvallur and the third respondent had also filed a suit before the Family Court, Tiruvallur. The custody of the child with the father per se cannot be said to be illegal for issuance of a writ of habeas corpus.

Accordingly, this Habeas Corpus Petition is closed with liberty to the parties to work out their remedies in the manner known to law. The trial Court is directed to expeditiously proceed with the cases filed by the third respondent.

Sd/-

Assistant Registrar (CCC)

//True Copy//

Sub Assistant Registrar

gm



To

1. The Principal District and Sessions Court,
Tiruvallur.
2. The Family Court,
Tiruvallur.
3. The Commissioner of Police,
Office of the Commissioner of Police,
Vepery, Chennai - 600 007.
4. The Inspector of Police,
All Women Police Station,
Avadi, Chennai - 600 026.
5. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.D.Senthil Kumar, Advocate, S.R.No.68233

+1cc to M/s.Majestic Law Firm, Advocate, S.R.No.68984

H.C.P.No.2116 of 2021

GJ(CO)
SU(03/01/2022)