



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.01.2021

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

and

THE HONOURABLE MR.JUSTICE G.ILANGOVA

H.C.P. (MD) No.103 of 2021

WEB COPY

V.Ganesh

... Petitioner

-vs-

1.The Superintendent of Police,
Tiruchirappalli District.

2.The Deputy Superintendent of Police,
Manaparai,
Tiruchirappalli District.

3.The Inspector of Police,
All Women Police Station,
Manaparai,
Tiruchirappalli District.

4.Ananthalakshmi

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of habeas corpus directing the respondents 1 to 3 to produce the body of the petitioner's daughter namely, Vedhavarshini aged about 12 years, daughter of V.Ganesh before this Court and handover the custody of the detinue to the petitioner.

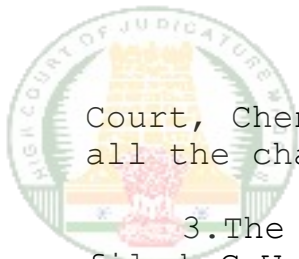
For Petitioner : Mr.V.Sasikumar
For Respondents : Mr.R.Anandharaj
Additional Public Prosecutor
(for R1 to R3)

O R D E R

[Order of the Court was made by K.KALYANASUNDARAM, J.]

The habeas corpus petition has been filed seeking a direction to the respondents to produce the petitioner's daughter namely, Vedhavarshini, aged about 12 years before this Court and hand over her custody to the petitioner.

2.It is the case of the petitioner that he married one Sinduja, the daughter of the fourth respondent. on 11.02.2008 as per Hindu Rites Religious Customs. During their wedlock, they are blessed with one female child, the detinue herein on 15.11.2008. It is the further case of the petitioner that on 04.10.2010, his wife committed suicide, for which, a case was registered against him under Section 306 and 498 IPC and he was tried before the Mahila



Court, Chengalpattu in S.C.No.260 of 2011, but he was acquitted from all the charges vide Judgment dated 04.09.2014.

3.The petitioner would further state that the fourth respondent filed G.W.O.P.No.6/2013 before the III Additional District Judge, Tiruchirappalli seeking permission to appoint her as guardian for the detainee and the said petition was allowed on 20.04.2013. Now, he has filed GWOP No.159/2019 before the Principal District Judge, Tiruchirappalli to appoint him as a guardian. In I.A.No.1 of 2019, he was granted permission of visiting rights by order dated 22.12.2020. He further state that as per the order, he went the house of the fourth respondent on 10.01.2021 and 17.01.2021 along with his counsel, but they found door was locked. Hence, he come forward with this habeas corpus petition.

4.The learned counsel for the petitioner Mr.V.Sasikumar would argue that when the detainee was 4-1/2 years old, the fourth respondent filed GWOP No.6 of 2013 and it was allowed. Now, she is 12 years old, and hence, the petitioner is entitled for her custody. Further, the order of the Court is not obeyed by the fourth respondent.

5.The learned Additional Public Prosecutor Mr.R.Anandharaj appearing on behalf of the respondents 1 to 3 would submit that the remedy for the petitioner is before the competent civil Court and a habeas corpus petition is maintainable only in extraordinary circumstances, but the petitioner has not shown any extraordinary circumstances to entertain the habeas corpus petition.

6.We find force in the submission of the learned Additional Public Prosecutor. In the instant case, it is not disputed that the custody of the minor child was given to the fourth respondent by an order of the competent civil Court in GWOP No.6/2013. If the petitioner is entitled to seek custody of the child, it is for him to approach the civil Court and the alleged non compliance of the order of the civil Court in Interlocutory Application would not entitle the petitioner to maintain this habeas corpus petition.

7.In that view, this habeas corpus petition is dismissed granting liberty to the petitioner to work out his remedy before the civil Court.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Note :

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To

- 1.The Superintendent of Police,
Tiruchirappalli District.
- 2.The Deputy Superintendent of Police,
Manaparai,
Tiruchirappalli District.
- 3.The Inspector of Police,
All Women Police Station,
Manaparai,
Tiruchirappalli District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.V.SASIKUMAR, Advocate (SR-2271[F] dated 27/01/2021)

H.C.P. (MD) No.103 of 2021
25.01.2021

AC (CO)
KB(17.03.2021) 3P 6C