



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.03.2021

CORAM:

WEB COPY

**THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM
and
THE HONOURABLE MR.JUSTICE G.ILANGO VAN**

H.C.P. (MD) No.233 of 2021

A.Nandhini ... Petitioner

-vs-

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

2.The Inspector of Police,
Sedapatti Police Station,
Madurai District.

3.Mrs.Logamani

4.Mrs.Jaya

5.Nagarajan ... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of habeas corpus, directing the respondents 1 and 2 to produce the body or person of the petitioner's minor son/detenu e namely Harsan (aged 3 years) before this Court and handover to the petitioner.

For Petitioner	:	Mr.A.S.Vaigunth
For R1 & R2	:	Mr.K.Dinesh Babu Additional Public Prosecutor
For R3 to R5	:	Mr.R.Gowrishankar Mr.P.Venkatesan for Mr.K.Mahalingam petitioner's husband

O R D E R

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

This petition has been filed for a direction to the respondents 1 and 2 to produce the petitioner's minor son, namely, Harsan, aged about 3 years, before this Court and handover the custody to the petitioner.



2. The respondents 3 & 4 are the sister-in-laws and the 5th respondent is the brother-in-law of the petitioner. The petitioner would claim that she was married to one Mahalingam on 14.06.2017. After the marriage, both were living together at Coimbatore. During this time, they were blessed with a child, the detenu herein. It is alleged that on 25.11.2020, the detenu was taken forcibly by her husband and thereafter, he is being illegally kept in the custody of the private respondents. The complaint given to the respondents 1 & 2 did not yield any result and hence, this petition has been filed.

3. Heard Mr.A.S.Vaigunth, learned counsel appearing for the petitioner, Mr.K.Dinesh Babu, learned Additional Public Prosecutor, Mr.R.Gowrishankar, learned counsel appearing for the respondents 3 to 5 and Mr.K.Venkatesan, learned counsel appearing for the petitioner's husband.

4. When the matter was taken up for hearing on 15.03.2021, Mr.K.Venkatesan, learned counsel, who is appearing for the petitioner's husband in a matrimonial case, undertook to bring the child today. Accordingly, the child along with his father appeared before this Court through Video Conferencing. Mr.K.Venkatesan, learned counsel submitted that the petitioner's husband Mahalingam has already filed a divorce case before the Principal Family Court, Coimbatore and the same was taken on file in H.M.O.P.No.528 of 2021. He further stated that there is no possibility of reunion, in view of the allegations made in the divorce petition.

5. It appears that due to the dispute between the husband and wife, both are living separately. The petitioner's husband would state that custody of the child was given to him in a Panchayat and he denied the allegation of taking custody of the detenu by force.

6. In the present case, admittedly, the detenu is with his father, who is the natural guardian. Considering the facts and circumstances of the case, we find no merit in the habeas corpus petition and hence, this petition is dismissed granting liberty to the petitioner to work out her remedy in the manner known to law. No costs.

Sd/-

Assistant Registrar(AE)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



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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,
Madurai District,
Madurai.
- 2.The Inspector of Police,
Sedapatti Police Station,
Madurai District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

H.C.P. (MD) No.233 of 2021
19.03.2021

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TR(24.04.2021) 3P 4C