



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.07.2021

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

and

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

H.C.P. (MD) No.954 of 2021

Maheswari

... Petitioner/Mother of the detenu

-vs-

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

2.The Inspector of Police,
Manamadurai Police Station,
Sivagangai District.

3.V.Thangavelu

4.Rajalakshmi

5.Ariyamuthu

... 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 person or body of the detenu, the Petitioner's minor son namely Rakshith, aged about 5 years from the illegal detention of the respondents 3 to 5 and hand over the Petitioner's child with her custody.

For Petitioner : Mr.R.Vinoth

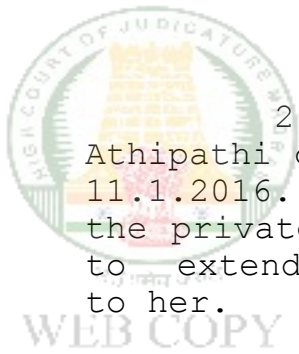
For Respondents : Mr.S.Ravi
1 and 2 Standing Counsel for the State

For Respondents : Mr.V.Kannan
3 to 5

O R D E R

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

The Petitioner has come forward with this Habeas Corpus Petition seeking for a direction to the respondents 1 and 2 to produce the Petitioner's son namely, Rakshith, aged about 5 years from the illegal custody of the respondents 3 to 5 and hand over the custody to the Petitioner.



2.The Petitioner would state that she was married to one Athipathi on 9.7.2014 and when she was pregnant, her husband died on 11.1.2016. She delivered a child on 27.3.2016. It is alleged that the private respondents/respondents 3 to 5 harassed her and refused to extend any help. Even the Sreedhana articles were not returned to her.

3.She further stated that her second marriage was solemnized with one Muthukrishnan and the marriage was performed on 18.10.2020 and thereafter, the private respondents/respondents 3 to 5 have taken the custody of the child on 5.5.2021. But they have not returned the child and hence, she lodged a complaint with the second respondent. Since no action was taken, the present Habeas Corpus Petition has been filed.

4.We have heard Mr.R.Vinoth, learned counsel appearing for the Petitioner and Mr.S.Ravi, learned Standing Counsel for the State appearing for the respondents 1 and 2 and Mr.V.Kannan, learned counsel representing the respondents 3 to 5 and perused the materials placed before this Court.

5.The learned counsel appearing for the fourth respondent would submit that on 18.10.2020, the Petitioner had eloped with one Muthukrishnan, leaving the child with her relatives and thereafter, the grand-parents of the detenu has taken the custody of the detenu in the month of October 2020 and since then, he is in the custody of the private respondents/respondents 3 to 5. It is further contended that the custody with the private respondents cannot be termed as illegal and if the Petitioner has any grievance, she can very well approach the competent Civil Court for appropriate relief.

6.The detenu along with the fourth respondent appeared before this Court from the Public Prosecutor's Office through video-conferencing and made statements.

7.Considering the facts and circumstances of the case, we are not inclined to entertain the present Habeas Corpus Petition. Accordingly, the Habeas Corpus petition is dismissed, granting liberty to the Petitioner to approach the competent Civil Court for appropriate relief, if so advised.

Sd/-

Assistant Registrar(CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

vsn

<https://hcservices.ecourts.gov.in/hcservices/>



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

ORDER MADE IN
H.C.P. (MD) No.954 of 2021
07.07.2021

VR(CO)
TR(14.07.2021) 3P 4C