



WEB COPY

H.C.P.(MD) No.1011 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

and

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

H.C.P.(MD) No.1011 of 2021

A.Ramya

... Petitioner

-vs-

1.The Superintendent of Police,
Kanyakumari District,
Nagercoil.

2.The Inspector of Police,
All Women Police Station,
Colachel,
Kanyakumari District.

3.The Sub-Inspector of Police,
Eraniel Police Station,
Eraniel,
Kanyakumari District.

4.M.Nagarajan

5.M.Suba

... 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 persons or bodies of the detenu namely N.R.Rohith S/o. Nagarajan aged 5 years and N.R.Rohan son of Nagarajan aged 3 years before this Court and hand over the custody to the petitioner.

For Petitioner: Mr.J.John Jayakumar

For R1 to R3 : Mr.S.Ravi
Standing counsel for Government

O R D E R

[Order of the Court was made by V.BHARATHIDASAN,J.]

This Habeas Corpus Petition has been filed for a direction to the respondents 1 to 3 to produce the petitioner's sons viz., N.R.Rohith, aged about 5 years and N.R.Rohan, aged about 3 years, before this Court and hand over the custody to the petitioner.

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



2. The learned counsel appearing for the petitioner would submit that the petitioner is the mother of the detenues and the fourth respondent is the husband of the petitioner. Due to the torture and ill-treatment of fourth respondent, the petitioner went to her parental home along with the detenues. While so, the fourth respondent took away the detenues without her knowledge. Hence, the petitioner has given a complaint with the third respondent against the respondents 4 and 5. But so far no action has been taken by the third respondent. Hence, the present Habeas Corpus Petition.

3. Mr.S.Ravi, learned Standing counsel appearing for the respondents on instructions would state that due to matrimonial dispute between the petitioner and her husband, she is living apart and the minor children are under the custody of the husband, the fourth respondent herein. Therefore, the petitioner cannot maintain the Habeas Corpus Petition.

4. Considering the fact and circumstances of the case, this Court is of the view that the custody of the minor children with their father cannot be considered as illegal custody and hence, this Habeas Corpus Petition is not maintainable. Accordingly, this Habeas Corpus Petition is dismissed. However, it is always open to the petitioner to approach the concerned civil Court and file appropriate petition, seeking the custody of the minor children.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

akv/sj

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,
Kanyakumari District,
Nagercoil.



2.The Inspector of Police,
All Women Police Station,
Colachel,
Kanyakumari District.

3.The Sub-Inspector of Police,
Eraniel Police Station,
Eraniel,
Kanyakumari District.

4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.J. JOHN JAYAKUMAR, Advocate (SR-24869[F] dated
02/08/2021)

H.C.P. (MD) No.1011 of 2021
02.08.2021

RD(17.08.2021) 3P 6C