



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.DURAI SWAMY

AND

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

H.C.P. (MD)No.1252 of 2021

Krishnamala

... Petitioner/Mother of the Detenu  
Vs.

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

2.The Inspector of Police,  
Uthumalai Police Station,  
Tenkasi District.

3.Ganapathy Ramasubramaniyan ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus to direct the respondents 1 and 2 to secure and produce the body or person of the petitioner's son namely Kirushanth S/o Ganapathy Ramasubramaniyan (petitioner's son), aged about 5 years, the detenu who may be in the illegal custody of the third respondent or somebody else and produce him before this Court.

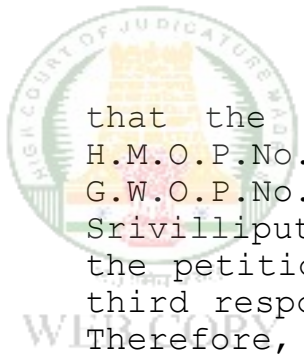
|                 |   |                                                    |
|-----------------|---|----------------------------------------------------|
| For Petitioner  | : | Mr.S.G.L.Rishwanth                                 |
| For Respondents | : | Mr.S.Ravi                                          |
|                 |   | Standing Counsel for Government<br>for R.1 and R.2 |
|                 | : | Mr.M.Jothi Basu                                    |
|                 |   | for R.3                                            |

**ORDER**

(Order of the Court was made by **M.DURAI SWAMY, J.**)

The petitioner, who is the mother of the alleged detenu, by name Minor.Kirushanth, aged 5 years, has filed the above Habeas Corpus Petition, to give a direction to the respondents 1 and 2 to secure the custody of her son from the illegal custody of the third respondent, who is none other than her husband.

2. On a reading of the affidavit filed in support of this Habeas Corpus Petition, it is clear that the dispute between the petitioner and the third respondent is a matrimonial dispute and



that the third respondent has filed a petition for divorce in H.M.O.P.No.122 of 2021 and also a guardianship O.P., in G.W.O.P.No.53 of 2021, before the Principal District Judge, Srivilliputhur and according to the learned Counsel appearing for the petitioner as well as Mr.M.Jothi Basu, learned Counsel for the third respondent, the petitions are pending before the trial Court. Therefore, it is crystal clear that the dispute is a matrimonial dispute between the petitioner and the third respondent. The petitioner has also sought to appoint her as a guardian in respect of her minor son and also for his custody. In this background, we are not inclined to entertain this Habeas Corpus Petition. Accordingly, the Habeas Corpus Petition is dismissed. No costs.

Sd/-

Assistant Registrar (CS I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

SSL

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

+1 CC to M/s.G.M.LAW OFFICE, Advocate( SR-27704[F] dated 31/08/2021 )

**H.C.P. (MD)No.1252 of 2021**  
**31.08.2021**

MGJ(07.09.2021) 2P 5C