



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.08.2021

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**THE HON'BLE MR.JUSTICE V.BHARATHIDASAN
AND
THE HON'BLE MR.JUSTICE R.PONGIAPPAN**

HCP(MD)No.1239 of 2021
(Through Video Conference)

S.Sumaiya ...Petitioner/Mother of the Detenue

-Vs-

- 1.The Commissioner of Police,
Office of the Commissioner of Police,
Alagar Kovil Main Road,
Madurai.
- 2.The Superintendent of Police,
Office of the Superintendent of Police,
Surveyor Colony,
Madurai.
- 3.The Inspector of Police,
Sellur Police Station,
Madurai.
- 4.The Inspector of Police,
Silaiman Police Station,
Madurai.
- 5.Basheer Usain ...Respondents

Prayer: Writ Petition is filed under Article 226 of Constitution of India, to issue a Writ of Habeas Corpus, directing the respondents 1 to 4 to produce the body and person of the Petitioner's minor son, Mohammed Rafan, S/o.Basheer Usain, aged about 4 years, who is



the detenu herein before this Court and handover his custody to the petitioner.

For Petitioner : Mr.Niranjana S.Kumar

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For Respondents 1 to 4 : Mr.T.Senthil Kumar
Standing Counsel for the State

ORDER

[ORDER OF THE COURT WAS MADE BY **V.BHARATHIDASAN, J.**]

The petitioner is the mother of the detenu, namely, Mohammed Rafan, S/o.Basheer Usain, aged about four years. Allegation is that, he has been taken into illegal custody by the fifth respondent, the father of the child, the petitioner has come up with this Habeas Corpus Petition.

2.The learned counsel for the petitioner submitted that now the petitioner has got divorced from the fifth respondent, her husband and he has keeping the custody of the minor child and she wants the child to her custody.

3.Today the minor child was produced before this Court along with his father, fifth respondent. On enquiry it is submitted that, a year ago, both the petitioner and the fifth respondent has got divorced and right from the beginning, the minor child is with his father.

4.Considering the fact that from the beginning, the child is in the custody of the father, fifth respondent herein, it is not considered as an illegal custody and hence, this petition cannot be maintained. Accordingly, this Habeas Corpus Petition is dismissed.

5.If the petitioner is interested in the custody of the minor child, it is always open to her to approach the concerned Court for getting appropriate remedy. However, considering the fact that the petitioner being the mother of the child, she is entitled for visitation right, and the fifth respondent is directed to permit the petitioner to see the child once in a week, ie., on every Saturday or Sunday between 6.00 a.m. and 6.00 p.m.

Sd/-

Assistant Registrar (CS III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

PJL



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 Commissioner of Police,
Office of the Commissioner of Police,
Alagar Kovil Main Road,
Madurai.
- 2.The Superintendent of Police,
Office of the Superintendent of Police,
Surveyor Colony,
Madurai.
- 3.The Inspector of Police,
Sellur Police Station,
Madurai.
- 4.The Inspector of Police,
Silaiman Police Station,
Madurai.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.NIRANJAN.S.KUMAR, Advocate (SR-27558[F] dated 27/08/2021)

H.C.P. (MD)No.1239 of 2021
27.08.2021

MGJ(13.09.2021) 3P 7C