



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE V. BHARATHIDASAN

and

THE HONOURABLE MRS.JUSTICE S.ANANTHI

H.C.P. (MD) No.981 of 2020

WEB COPY

Dr.M.Mariappan

... Petitioner

-vs-

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

2.The Inspector of Police,
Nagamalai Pudukottai Police Station,
Nagamalai Pudukottai,
Madurai District.

3. Dr.Mullai Veluthambi

... Respondents

PRAYER : Habeas Corpus Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Habeas Corpus, directing the respondents to produce the person or body of the detinue namely minor Nithilan, aged about 8 years, S/o.Mariappan before this Court.

For Petitioner	:	Mr.R.Subramanian
For R1 & R2	:	Mr.S.Ravi
		Standing counsel for Government
For R3	:	Mr.C.M.Arumugam

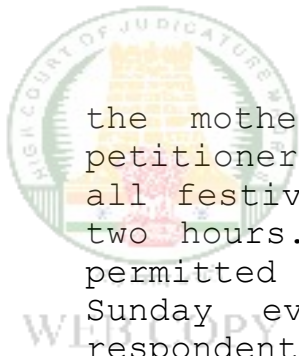
O R D E R

(Order of the Court was made by V.BHARATHIDASAN, J.)

Alleging that the petitioner's minor son by name Nithilan, aged about 8 years, is in illegal custody of the third respondent, who is none other than his wife and mother of the minor child, the present Habeas Corpus Petition has been filed.

2. Earlier, the matter was referred to the Mediation and Conciliation Centre attached to this Bench and the mediation failed and hence, the matter was again listed before this Court.

3. Mr.R.Subramanian, learned counsel appearing for the petitioner would submit that earlier the petitioner and the third respondent had obtained a mutual divorce and as per the agreement entered between the parties, the custody of the child was given to



the mother. It is also agreed that on his birthday, the petitioner will be permitted to take the child for two hours and all festival days, the father is permitted to take the child for two hours. That apart, on every fourth Saturday, the father is permitted to take the child with him and return the child on Sunday evening before 3 o'clock. However, now the third respondent/wife is not permitting the petitioner to see his child. He would further submit that the petitioner may be permitted to see his son on every 4th Saturday for four hours and also permitted to take outside during the four hours.

4. Mr.C.M.Arumugam, learned counsel appearing for the third respondent/wife on instructions would submit that the third respondent has no objection for the same.

5. Considering the fact that the child is in the custody of the third respondent/mother, it cannot be termed as illegal custody and hence, the Habeas Corpus Petition is not maintainable and the same is dismissed. However, as agreed between the parties, the petitioner is permitted to take the child on 4th Saturday of every month for a period of four hours, if it is a School holiday, and during that four hours, the petitioner is also permitted to take the child outside and the third respondent should not object the same. It is also made clear that if the petitioner wants the custody of the minor child, it is always open to the petitioner to approach the concerned Civil Court, seeking the custody of the child, in the manner known to law.

Sd/-

Assistant Registrar (RECORDS)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

akv

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,
Madurai District.

2.The Inspector of Police,
Nagamalai Pudukottai Police Station,
Nagamalai Pudukottai,
Madurai District.

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

+1 CC to M/s.R.SUBRAMANIAN, Advocate (SR-27974[F] dated 02/09/2021)

+1 CC to M/s.C.M.ARUMUGAM, Advocate (SR-28123[F] dated 03/09/2021)

H.C.P.(MD) No.981 of 2020
02.09.2021

KMV(CO)
SB(14.09.2021) 3P 6C