



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.11.2021

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN
and
THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN
H.C.P. (MD) No.1590 of 2021

Udhaya Madhanghi, D/o.S.Gandhi

... Petitioner

-vs-

1.The State,
Rep. by the Inspector of Police,
Panagudi Police Station,
Panagudi,
Tirunelveli District.

2.The State,
Rep. by the Inspector of Police,
Kodaikanal Police Station,
Kodaikanal,
Dindigul District.

3.C.Baskar

... Respondents

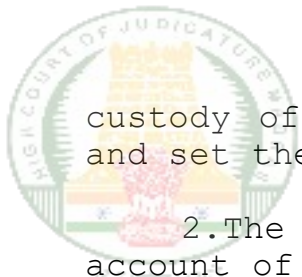
PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus directing the respondents 1 and 2 to secure the petitioner's son namely, Riyan, S/o.Udhaya Madhanghi, aged about 2 years, residing at 5-A, Kamarajar Street, Kori Colony, Panagudi, Tirunelveli District, from the custody of the third respondent and subsequently, produce him before this Court and set him at liberty by handing over him to the petitioner's custody for mother's feed forthwith.

For Petitioner	:	Mr.S.Palani Velayutham
For Respondent Nos.1 and 2	:	Mr.S.Ravi
		Additional Public Prosecutor

O R D E R

S.VAIDYANATHAN, J.
and
G.JAYACHANDRAN, J.

The present Habeas Corpus Petition has been filed for a direction to the respondents Police to secure the petitioner's son namely, Riyan, aged about 2 years, residing at 5-A, Kamarajar Street, Kori Colony, Panagudi, Tirunelveli District, from the



custody of the third respondent and produce him before this Court and set the child at liberty.

2.The learned counsel for the petitioner submitted that on account of matrimonial dispute, the third respondent and the in-laws of the petitioner driven out the petitioner from the matrimonial home and took the minor child, namely, Riyan, aged about 2 years. The learned counsel further submitted that even though an F.I.R. has been registered in Crime No.580 of 2021 under Sections 294(b), 323 and 506(i) I.P.C. and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 2002, no further action has been taken. Hence, the petitioner is before this Court seeking for a suitable direction.

3.Today, when the matter is taken up for hearing, the learned Additional Public Prosecutor appearing for the respondents Police submitted that on account of a family dispute, a divorce petition was filed before the Family Court and the same is pending.

4.Considering the fact that the issue revolves around matrimonial dispute, we cannot come to the conclusion that the minor child, aged about 2 years, is under the illegal custody of the father. Further, whether the petitioner is entitled to the custody of the minor child or not has to be decided by the concerned Family Court and we cannot hold that the the minor child is under the illegal custody of the father. Hence, this Habeas Corpus Petition is dismissed with liberty to the petitioner to work out her remedy before the appropriate forum, where the matter is pending.

Sd/-

Assistant Registrar (T&P)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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 Inspector of Police,
Panagudi Police Station,
Panagudi,
Tirunelveli District.



2.The Inspector of Police,
Kodaikanal Police Station,
Kodaikanal,
Dindigul District.

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

H.C.P. (MD) No.1590 of 2021
08.11.2021

MMS (CO)
KB (24.11.2021) 3P 4C