



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.02.2022

Coram

THE HONOURABLE MR. JUSTICE P.N.PRAKASH
and
THE HONOURABLE MRS. JUSTICE R.HEMALATHA

H.C.P.No.118 of 2022

D.Kotteeswarai
D/o.Dhayalan

.. Petitioner

Vs.

1.State represented by its
The Superintendent of Police,
Chengalpattu,
Chengalpattu District.

2.State represented by its
The Inspector of Police,
S14- Peerkankaranai Police Station,
Chengalpattu.

3.K.Ganesh
S/o.Kabali

.. Respondents

Habeas Corpus Petition filed under Article 226 of the Constitution of India praying to issue a writ of Habeas Corpus directing the second respondent to produce the petitioner's daughter G.Pugazhini, aged about 3 years, before this Court from the illegal custody of the third respondent and hand over to the petitioner.

For Petitioner : Mr.R.Rajeshkrishnan

For Respondents : Mr.R.Muniyapparaj
Additional Public Prosecutor

ORDER

[Order of the Court was made by P.N.PRAKASH, J]

This petition has been filed seeking a direction to the second respondent to produce the petitioner's daughter G.Pugazhini, aged about 3 years before this Court from the illegal custody of the third respondent and hand over to the petitioner.



2. It is the case of the petitioner that she and the third respondent belong to different caste, but, were intensely in love with each other for over 15 years and ultimately got married on 08.09.2011. Through the wedlock, the petitioner was blessed with a child viz., G.Pugazhini on 22.08.2018. Thereafter, on account of marital discord, the petitioner got estranged from her husband and is living with her child in her natal home. It is alleged by the petitioner that on 21.01.2022, the third respondent forcibly took away the child and thereafter, became scarce. On these allegations, the petitioner has filed the present petition.

3. On 28.01.2022, we passed the following order:

'Mr.R.Muniyapparaj, learned Additional Public Prosecutor, takes notice for the respondents 1 and 2.

2. Private notice to the third respondent returnable by 04.02.2022.

3. The second respondent/police is directed to produce Ganesh, third respondent herein, along with the child Pugazhini, aged about 3 years, either in person or via video conferencing before this Court on 04.02.2022.

Post the matter on 04.02.2022.'

4. Today, Mr.D.Victor Rajaiah, Sub-Inspector of Police and Ms.T.Kavitha, WPC Grade-I, Sl4 - Peerkankaranai Police Station, produced K.Ganesh (third respondent herein) and the child. The petitioner is also present.

5. We enquired the parties individually and we are of the view that if they are sent for mediation, there is every possibility of they rejoining for the welfare of the child. Since Pugazhini is hardly three years, we are of the view that it will serve the interests of justice if her custody is handed over to the petitioner. The third respondent also understood that the child being of tender age should grow with the mother and he handed over custody of the child to the petitioner.

6. We direct the petitioner and the third respondent to appear before the Secretary, District Legal Services Authority, Sub-Court, Tambaram, on 14.02.2022 at 10.30 a.m. and the Secretary is directed to refer them to the Mediation and Conciliation Centre.

7. In the mean while, we direct the petitioner to take the child on every Saturday and Sunday to the house of the third



respondent at 10.30 in the morning and spend time till 2.00 in the afternoon. This is purely an interim arrangement and it is open to the parties to approach the appropriate Court for further relief, if so advised and the said Court shall pass appropriate orders without in any manner being influenced by the directions given by us in this order.

With the above direction, this Habeas Corpus Petition is closed.

Sd/-
Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

gm

To

- 1.The Secretary,
District Legal Services Authority,
Sub-Court, Tambaram.
- 2.The Superintendent of Police,
Chengalpattu,
Chengalpattu District.
- 3.The Inspector of Police,
S14- Peerkankaranai Police Station,
Chengalpattu.
- 4.K.Ganesh
S/o.Kabali
Door No.59, Nehru Highways,
M.R.K.Nagar,
Pudu Perungalathur,
Chengalpattu - 600 063.
- 5.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.A.Ilayaperumal, Advocate S.R.No.7202

H.C.P.No.118 of 2022

KK(CO)
SB(09/02/2022)