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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.03.2022

CORAM

THE HONOURABLE MR. JUSTICE P.N.PRAKASH
AND
THE HONOURABLE MR. JUSTICE A.A.NAKKIRAN

H.C.P.NO.313 OF 2022

Siva Kumar

.. Petitioner/
Father of the Detenue

Vs.

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

2. The Inspector of Police,
Kolathur Police Station,
Salem District.

3. Chandhiran

.. Respondents

Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus directing the 1st and 2nd respondents herein to secure and produce the petitioner's minor son viz., Ilavarasan aged about 15 years, from the 3rd respondent, before this Court and hand over to the petitioner.

For Petitioner : Mr.C.Deepak Kumar

For RR 1 and 2 : Mr.R.Muniyapparaj,
Addl. Public Prosecutor

ORDER

[Made by P.N.PRAKASH, J.]

This habeas corpus petition has been filed seeking a direction to the 1st and 2nd respondents herein to secure and produce the petitioner's minor son viz., Ilavarasan aged about 15 years, from the 3rd respondent, before this Court and hand over to the petitioner.



2. It is the case of the petitioner that he got married to one Vijayalakshmi and through the wedlock, he has a son Ilavarasan, who was born on 22.03.2007. It is the allegation of the petitioner that his wife Vijayalakshmi developed intimacy with one Chandhiran, 3rd respondent herein and eloped with him along with her son Ilavarasan and thereafter, Chandhiran, Vijayalakshmi and Ilavarasan were living together.

3. While that being so, on account of some discord between Chandhiran and Vijayalakshmi, the latter committed suicide on 21.12.2021, in connection with which, a case in Kolathur Police Station Crime No.447 of 2021 has been registered.

4. Now, the petitioner has filed the present habeas corpus petition seeking custody of his son Ilavarasan.

5. Today, L.Anbalagan (Mobile No.9443663195), Sub-Inspector of Police, Kolathur Police Station, Salem District, is present. He produced Chandhiran and Ilavarasan before this Court. The petitioner is also present.

6. When we enquired Ilavarasan, he stated that he is studying in X standard. In the presence of the petitioner, when we asked Ilavarasan to go with the petitioner, he flatly refused the same and stated that he would go only with Chandhiran.

7. When we enquired with Chandhiran, he stated that he is involved in a murder case and he has no objection, if Ilavarasan goes to the petitioner.

8. Though Ilavarasan is a minor, yet, he appears to be well informed and very decisive. Ilavarasan told the petitioner that he would not go with him at all and he would stay with Chandhiran.

9. Under such circumstances, it cannot be stated that Ilavarasan is in the illegal custody of Chandhiran for the issuance of a writ of habeas corpus.



In the result, this habeas corpus petition stands closed with liberty to the petitioner to approach the Court concerned for guardianship and custody in accordance with law.

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Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

nsd

To

1. The District Superintendent of Police,
Salem District,
Salem.
2. The Inspector of Police,
Kolathur Police Station,
Salem District.
3. The Public Prosecutor,
High Court, Madras.

H.C.P.No.313 of 2022

RP(CO)
PM/18/03/2022