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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.03.2022

Coram

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

H.C.P.No.372 of 2022

P.K.Mohamed Muyeenuddin
S/o.Pazhoorkochu Mohamed

.. Petitioner

Vs.

1. The Commissioner of Police,
The Office of the Commissioner of Police,
Greater Chennai, Vepery,
Chennai - 600 007.
2. The Inspector of Police,
Neelangarai Police Station,
Chennai.
3. Farzana Muyeenuddin
D/o.Abdul Sardar
4. Abdul Sardar

.. Respondents

Prayer: 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 children of the petitioner/detenues viz., P.K.Mohamed Arman, aged about 13 years and P.K.Mohamed Afzan, aged about 11 years, from the custody of the respondents 3 and 4 before this Court and hand over their custody to the petitioner.

For Petitioner : Mr.T.K.Rajasekaran

For Respondents: Mr.R.Muniyapparaj
Additional Public Prosecutor [R1 & R2]
Mr.R.C.Paul Kanagaraj [R3 & R4]



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 detainees viz., P.K.Mohamed Arman, aged about 13 years and P.K.Mohamed Afzan, aged about 11 years, from the custody of the respondents 3 and 4 before this Court and hand over their custody to the petitioner.

2. It is the case of the petitioner that he got married to the third respondent on 23.10.2007 and through the wedlock, she has two sons viz., P.K.Mohamed Arman, aged about 13 years and P.K.Mohamed Afzan, aged about 11 years. On account of marital discord, the petitioner got estranged from the third respondent. Alleging that the third respondent has taken away the two children, who were studying in Vels International School, Neelangarai, Chennai, from the School and that the whereabouts of the children are not known, the petitioner has filed the present petition.

3. Today, Mr.C.Mahesh Kumar, Inspector of Police, J8 Neelangarai Police Station [Mobile No.99406 34500] is present. Ms.Farzana Muyeenuddin [third respondent herein] is also present with her two children and her Advocate Mr.R.C.Paul Kanagaraj.

4. When enquired by us, Farzana Muyeenuddin stated that she is residing in No.1, Sea Cliff Conclave, 4th drive, Akkarai, Chennai - 600 119 [Mobile No.73585 86876]. She stated that the two children are with her and she has not taken them away from Vels International School, Neelangarai, Chennai, but, fearing the petitioner, she has not been sending them to School.

5. Of course, both sides traded charges against each other, with which we are not concerned. The short question is whether the children are in the illegal custody of the third respondent. We find that the children are not in the illegal custody of the third respondent for issuance of a writ of habeas corpus.

6. Mr.T.K.Rajasekaran, learned counsel for the petitioner, stated that the petitioner has filed a suit in O.S.No.23/2022 for divorce against the third respondent and the same is pending on the file of the VII Additional Family Court, Chennai and the first hearing is on 28.03.2022.

7. Mr.R.C.Paul Kanagaraj, learned counsel, submitted that the third respondent will enter appearance in O.S.No.23/2022 without waiting for any summons there from and contest the matter in the Family Court.



8. Now we direct the third respondent to provide free access for the petitioner to be with the children in the Mediation Centre for a reasonable time of two hours and thereafter, she can take the children with her.

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

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

gm

To

1. The Commissioner of Police,
The Office of the Commissioner of Police,
Greater Chennai, Vepery,
Chennai - 600 007.
2. The Inspector of Police,
Neelangarai Police Station,
Chennai.
3. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.R.C.Paul Kanagaraj, Advocate, S.R.No.19057

+1cc to Mr.T.K.Rajasekaran, Advocate, S.R.No.19066

H.C.P.No.372 of 2022

SSV[co]
NSK 04/04/2022