



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.04.2022

Coram

The Honourable Mr. Justice P.N.PRAKASH
and
The Honourable Mr. Justice A.A.NAKKIRAN

H.C.P.No.658 of 2022

D.Mohan Babu

.. Petitioner

Vs.

1. The Superintendent of Police,
Thiruvallur District.
2. State represented by
The Inspector of Police,
C-1, Uthukottai Police Station,
Thiruvallur District.

.. Respondents

Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus directing the 2nd respondent police to produce the detenu Geethaakshar, aged about 9 years, before this Court and hand over to the petitioner.

For Petitioner : Ms.B.Sharmila

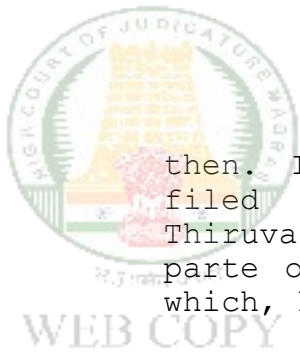
For Respondents : Mr.M.Babu Muthumeeran
Addl. Public Prosecutor

ORDER

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

This habeas corpus petition has been filed seeking a direction to the 2nd respondent police to produce the detenu Geethaakshar, aged about 9 years, before this Court and hand over to the petitioner.

2. It is the case of the petitioner that he got married to one Lakshmi on 29.01.2012 and through the wedlock, he has a male child Geethaakshar, who is now aged about 9 years. Even according to the petitioner, he got estranged from his wife in the year 2015 and his son was being brought up by his wife since



then. It is the further case of the petitioner that Lakshmi filed H.M.O.P.No.18 of 2018 in the Subordinate Court, Thiruvallur, for divorce, on the ground of cruelty and an ex parte order has also been passed in favour of Lakshmi, against which, he has filed an application for setting aside the same.

3. Alleging that Lakshmi has remarried and she is not giving access to the petitioner to see his child, the present habeas corpus petition has been filed.

4. In our considered opinion, it is not the case of the petitioner that the child is in the illegal custody of the respondents 1 and 2. Admittedly, the child is in the custody of its mother and therefore, it cannot be stated that the same is illegal. When so much of litigations have taken place between the parties since 2018, it may not be appropriate for this Court to issue a writ of habeas corpus at this juncture.

Hence, this habeas corpus petition stands closed with liberty to the petitioner to work out his remedy in the manner known to law.

Sd/-
Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

nsd

To

1. The Superintendent of Police,
Thiruvallur District.
2. The Inspector of Police,
C-1, Uthukottai Police Station,
Thiruvallur District.
3. The Public Prosecutor,
High Court, Madras.

+1cc to M/s.B.Sharmila, Advocate, S.R.No.28323

H.C.P.No.658 of 2022

AJS (CO)
SU(05/05/2022)