



WEB COPY



Order dated : 19.09.2022
H.C.P.No.1765 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.09.2022

CORAM

THE HONOURABLE MR. JUSTICE P.N.PRAKASH
and
THE HONOURABLE MR. JUSTICE RMT. TEEKAA RAMAN

H.C.P.No.1765 of 2022

R.Karthika
D/o.Late T.N.Ravichandran

.. Petitioner

Vs.

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

2.The Inspector of Police,
Kumarapalayam Police Station,
Kumarapalayam, Namakkal District.

3.G.Hemalatha
W/o.Kamala Kannan

4.G.Sundaravel
S/o.N.Govindaraj

5.The Inspector of Police,
All Women Police Station,
Tiruchengode, Namakkal District.

.. Respondents

[R5 *suo motu* impleaded by this Court *vide* order dated 12.09.2022]



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Habeas Corpus Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus directing the respondents 1 and 2 to rescue the minor child of the petitioner, namely, Avanthikaa, 6 years, from the illegal custody of respondents 3 and 4 and to produce the minor child before this Court to enable the petitioner to have custody of minor child Avanthikaa.

For Petitioner : Mr.S.N.Ravikumar

For Respondents : Mr.R.Muniyapparaj
Additional Public Prosecutor [R1,R2& R5]

ORDER

[Made by P.N.PRAKASH, J]

This petition has been filed seeking a direction to the respondents 1 and 2 to rescue the minor child of the petitioner, namely, Avanthikaa, 6 years, from the illegal custody of respondents 3 and 4 and hand over custody to the petitioner.

2. It is the case of the petitioner that she got married to Sundaravel [fourth respondent] on 03.04.2015 and through the wedlock, she has a child



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viz., Avanthikaa [D.O.B: 21.09.2016]. The petitioner alleges that on 10.07.2022, her husband forcibly took away Avanthikaa from her custody and on this ground, the present petition has been filed.

3. On 12.09.2022, we passed the following order:

"It is the case of the petitioner that her daughter Avanthikaa, aged about 6 years, has been forcibly taken away by G.Sundaravel, fourth respondent herein, on 11.07.2022, pursuant to which, on a complaint given by the petitioner, a petition enquiry in Tiruchengode All Women Police Station C.S.R.No.216 of 2022 has been registered and enquiry is in progress.

2. While so, the petitioner has given a complaint to the second respondent/police and has filed the present habeas corpus petition.

3. Today, Mr.S.Natarajan (Mobile No.94981 69140), Special Sub-Inspector of Police, Kumarapalayam Police Station, Namakkal District, is present.

4. In our opinion, it will serve the interest of justice, if the Inspector of Police, All Women Police Station, Tiruchengode, Namakkal District, is impleaded as a party respondent in this petition.

5. Therefore, this Court *suo motu* impleads the Inspector of Police, All Women Police Station, Tiruchengode, Namakkal District, as the fifth respondent in this petition. The Registry is directed to carry out the necessary amendment in the cause title.



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6. The Inspector of Police, All Women Police Station, Tiruchengode, Namakkal District, is directed to produce G.Sundaravel, fourth respondent and the child Avanthikaa, aged about 6 years, before this Court on 19.09.2022.

Post the matter on 19.09.2022."

4. Pursuant to the above, today, Mrs.S.Anandjothi [WPC 1908], All Women Police Station, Thiruchengode, is present. Sundaravel [fourth respondent] is present with the child Avanthikaa. The petitioner is also present.

5. We permitted the petitioner to have access to Avanthikaa in the mediation room for about two hours. On enquiry, we find that the petitioner had gone to take care of her mother, who was ailing and Avanthikaa was in the custody of the fourth respondent and was going to a school nearby. It is also seen that the petitioner has given police complaints against the fourth respondent and his family members, pursuant to which, fourth respondent and his mother had obtained anticipatory bail from the Sessions Court in CrI.M.P.Nos.1661 and 1442 of 2022.



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6. We are confident that the differences between the petitioner and her husband are not so deep. A rapprochement could be brought about, if they are sent for mediation. The petitioner also stated that she is willing to join with the fourth respondent and Avanthikaa in Bhavani, which is recorded. In such view of the matter, the fourth respondent shall have the custody of the child Avanthikaa for now in his residence at 28/A2, Aalangadu, Perumapalayam Pudur, B.Komarapalayam - 638 183 [Mobile: 79041 75559]. We grant visitation rights to the petitioner on every Saturday and Sunday. Since both the parties are living nearby, we direct the fourth respondent to drop Avanthikaa on every Saturday at 10.00 a.m. in the residence of the petitioner at 7/16, Thottipalayam, Thottipalayam (Post), Bhavani (TK), Erode District - 638 301 [Mobile: 94869 24289] and collect her at 05.00 p.m. on the ensuing Sunday. If there is any violation, the other party can approach the Inspector of Police, All Women Police Station, Tiruchengode, where CSR No.216 of 2022 is pending.



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7. We also direct the petitioner and the fourth respondent to appear before the Secretary [Sub Judge], District Legal Services Authority, Erode District, at 10.00 a.m. on 29.09.2022 and the Secretary shall send them for mediation. Senior advocates of the local bar, who have been trained as mediators, may be nominated to do the mediation. Thereafter, it is open to the parties to work out their remedies in the manner known to law. The above order of visitation is purely an interim arrangement and it is always open to the concerned Court to either modify the same or pass orders in the paramount interest of the child in matrimonial proceedings as it deems fit.

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

[PNP, J.] [TKR, J.]
19.09.2022

Index: Yes/No
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To

- 1.The Superintendent of Police,
Namakkal, Namakkal District.
- 2.The Inspector of Police,
Kumarapalayam Police Station,
Kumarapalayam, Namakkal District.
- 3.The Inspector of Police,
All Women Police Station,
Tiruchengode, Namakkal District.
- 4.The Public Prosecutor,
High Court, Madras.



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