



H.C.P.No.1862 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 17..10..2022

Coram

The Honourable Mr. Justice **P.N.PRAKASH**
and

The Honourable Mr. Justice **RMT.TEEKAA RAMAN**

Habeas Corpus Petition No.1862 of 2022

Gokul Raj
Son of Parthasarathy

..... Petitioner

-Versus-

- 1.The Superintendent of Police,
Villupuram District,
Villupuram.
- 2.The Deputy Superintendent of Police,
Kallakurichi,
Villupuram District.
- 3.State Rep. by
The Inspector of Police,
Sankarapuram Police Station,
Kallakurichi,
Villupuram District.
- 4.Parthasarathy,
Son of Arumugam



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5. Alamelu,
Wife of Parthasarathy

6. Vishnu,
Son of Parthasarathy

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.... Respondents

Petition filed under Article 266 of The Constitution of India, praying to issue a Writ of Habeas Corpus directing the respondents 1 to 3 police to produce the body of the male child, namely RUDRESH, son of Gokulraj (petitioner herein) and Ilavarasi, aged about 4 ½ years, now detained under the custody of the respondents 4 to 6 and handover him to the custody of the petitioners.

For Petitioner : M/s.T.K.S.Bharathy Shri &
M.S.Ramesh

For Respondent(s) : Mr.R.Muniyapparaj,
Addl. Public Prosecutor
for RR1 to 3
Mr.J.Agni for RR4 & 5

ORDER

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

This Habeas Corpus Petition has been filed seeking a direction to the respondents 1 to 3 to produce the body of the male child, namely



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RUDRESH, who is the son of Gokulraj (petitioner herein) and Ilavarasi, aged about 4 ½ years, now detained under the custody of the respondents 4 to 6 and handover him to the custody of the petitioners.

2. Though the facts of this case are indeed very complex and bizarre, we are narrating only those facts which are relevant for deciding this petition.

3. For the sake of convenience, the parties will be referred to by their respective name.

4. Gokul Raj fell in love with Ilavarasi and got married to her on 30.10.2017. Through the wedlock, they have got a son – RUDRESH, who was born on 06.02.2018. According to Gokul Raj, he was harassed by his parents Parthasarathy and Alamelu for marrying a poor girl. It is his further allegation that on 01.01.2022, his parents came to his house at Agraharapandalam in Sankarapuram Taluk, where he was residing and forcibly took away the child from his custody. He gave a complaint to the



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police in this regard, based on which, a petition enquiry in Sankarapuram

Police Station CSR No.10 of 2022 dated 03.01.2022 was registered. His

parents Parthasarathy and Alamelu took the child and left the village on

01.01.2022 and became scarce. However, they returned to the village on

04.08.2022 and on seeing them, Gokul Raj went to the house of his parents

and demanded the return of his child, but, Parthasarathy and Alamelu

refused to return the child. Therefore, Gokul Raj again approached

Sankarapuram Police Station and on his written complaint, a petition

enquiry was conducted in CSR 324 of 2022 dated 04.08.2022 and later, it

was converted into a regular case in Crime No.333 of 2022 on 10.08.2022

for the offence under Section 294(b), 323, 354 and 506(i) IPC against

Parthasarathy and Alamelu and Vishnu (younger brother of Gokul Raj). In

this background, Gokul Raj has filed the present Habeas Corpus Petition

seeking custody of his child.

5. On our directions, Mr.M.Pandian, Inspector of Police, Sankarapuram P.S. and Mr.Kathar Khan, Grade-I Police Constable (PC2628), Sankarapuram P.S. secured Parthasarathy, Alamelu and the child



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and produced them before us.

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6. On instructions, the learned Additional Public Prosecutor submitted that Parthasarathy had gone to Nagiri, a village in the State of Andhra Pradesh, from where police secured him and produced him before this court along with his wife and grandson.

7. Mr.J.Agni, learned counsel entered appearance for Parthasarathy (4th respondent) and Alamelu (5th respondent).

8. When we enquired Parthasarathy, he told us a long story and made counter allegations against his son - Gokul Raj and daughter-in-law – Ilavarasi. He has stated that his son – Gokul Raj attempted to commit suicide thrice by consuming poison, but he did not die and he was saved from the jaws of death on account of medical intervention. Parthasarathy and Alamelu stated that the child was brought up by them since the date of birth showering love and affection on the child all along and they cannot live without it.



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9. Be that as it may, the fact remains that Gokul Raj and Ilavarasi, who are on the same page, are the natural parents of the child and Parthasarathy and Alamelu are only its grandparents. Further, the fact remains that a criminal case in Sankarapuram Police Station Crime No.333 of 2022 has been registered against Parthasarathy, Alamelu and their younger son - Vishnu for various IPC offences as stated by us above.

10. In such view of the matter, the natural parents of the child cannot be denied the custody and hence, we hand over the custody of the child to Gokul Raj and Ilavarasi, who are present in the court. We, however, grant visitation rights to Parthasarathy and Alamelu to visit their grandson in the house of Gokul Raj and Ilavarasi on every Saturday at 10.00 a.m., if so advised and spend some time with the child. They cannot forcibly remove the child from the custody of its parents. This visitation rights will begin from 29.10.2022 (Saturday). This is purely a temporary arrangement and it is open to Parthasarathy and Alamelu to approach the appropriate court under the Guardians and Wards Act, 1890, for custody of the child. In such event, it is open to the said court to pass any orders, both interim as well



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final with regard to the custody of the child.

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In the result, this Habeas Corpus Petition is ordered accordingly with the above directions.

We place on record our appreciation to Mr.M.Pandian, Inspector of Police, Sankarapuram Police Station and Mr.Kathar Khan, Grade-I Police Constable (PC2628), Sankarapuram Police Station for tracing the child in the State of Andhra Pradesh and producing it before us.

[P.N.P., J.] [TKR., J.]
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Index: Yes/No
Speaking/Non Speaking Order

kmk

- 1.The Superintendent of Police, Villupuram District, Villupuram.
- 2.The Deputy Superintendent of Police, Kallakurichi, Villupuram District.
- 3.The Inspector of Police, Sankarapuram Police Station, Kallakurichi, Villupuram District.
- 4.The Public Prosecutor, High Court, Madras.



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