



H.C.P.No.1902 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.10.2022

Coram

The Honourable Mr. Justice **P.N.PRAKASH**
and
The Honourable Mr. Justice **RMT.TEEKAA RAMAN**

H.C.P.No.1902 of 2022

Pattammal

.. Petitioner

Vs

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

2.State represented by
The Sub-Inspector of Police,
All Women Police Station,
Avinashi, Tiruppur District.

3.Anbarasu

4.Padma

5.Subramaniam

.. Respondents

Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus directing the second respondent to produce the



H.C.P.No.1902 of 2022

detenu viz. Guhan, aged about 2 years, S/o.Anbarasu, before this Court and hand over the child to the petitioner from the illegal custody of the third to fifth respondents.

For Petitioner : Mr.R.Raghu Raj
For RR 1 and 2 : Mr.R.Muniyapparaj
Addl. Public Prosecutor
For RR 3 to 5 : Mr.S.Vinoth Kumar

ORDER

(Made by *P.N.PRAKASH, J.*)

This habeas corpus petition has been filed by the petitioner seeking a direction to the second respondent to produce her son viz. Guhan, aged about 2 years, S/o.Anbarasu, before this Court and hand over the child to her from the illegal custody of the third to fifth respondents.

2. It is the case of the petitioner that in the year 2017, while she was working as a tailor in Srija Garments Private Limited in Coimbatore, she got acquainted with Anbarasu, third respondent herein, fell in love with



H.C.P.No.1902 of 2022

him and got married to him on 19.01.2018; through the wedlock, she has a son Guhan (born on 11.06.2020); on account of some misunderstanding with her husband, she got separated and that her son is in illegal custody of the third respondent. On these allegations, the present habeas corpus petition has been filed.

3. Today, G.Kristya (Mobile No.81448 14364), Women Police Constable 645, All Women Police Station, Avinashi, Tiruppur District, is present.

4. Mr.S.Vinoth Kumar, learned counsel has entered appearance for the third to fifth respondents and filed a detailed counter dated 17.10.2022, wherein, he has stated as follows:

“9. I state that the petitioner 4 years elder to me and the petitioner already married lady she married one Manikandan, S/o.Selvarasu, who residing at Villupuram and the petitioner already have one female child viz. Manisha, now her age about 11 years (date of birth 13.03.2011) it is pertained to point of that the said girl child is a mentally disable but the petitioner and her parents are suppressing the entire things marrying me without got divorce from her first husband and the petitioner didn't take of her first girls child even the said girl child is a mentally disable hence the petitioner not entitled to the custody of my son with her. I state that I am the father of my son viz. A.Guhan, aged about 2 years



WEB COPY



H.C.P.No.1902 of 2022

and also natural guardian of my son hence there is no question of illegal custody and I state that I reserved my rights to prove my guardianship of my minor son viz. A.Gugan, aged about 2 years, by filing necessary petition under the Hindu Minority and Guardianship Act, 1956 and there is not illegal custody of my son and he was proper care and custody of me hence this Habeas corpus petition liable to be dismissed.”

5. Thus, from the above, it is seen that the aforesaid facts have not been disclosed by the petitioner in her affidavit. Since disputed questions of fact are there in this case, the same cannot be gone into in this habeas corpus petition.

Hence, this habeas corpus petition stands closed with liberty to the petitioner to move the appropriate Court for appropriate relief.

(P.N.P., J.) (TKRJ)
17.10.2022

Index: Yes/No
nsd



H.C.P.No.1902 of 2022

WEB COPY

- To
- 1.The Superintendent of Police,
Tiruppur District, Tiruppur.
 - 2.The Sub-Inspector of Police,
All Women Police Station,
Avinashi, Tiruppur District.
 - 3.The Public Prosecutor,
High Court, Madras.



WEB COPY



H.C.P.No.1902 of 2022

P.N.PRAKASH, J.
and
RMT.TEEKAA RAMAN, J.

nsd

H.C.P.No.1902 of 2022

17.10.2022