



WEB COPY



H.C.P.No.1947 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 08.11.2022

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

AND

THE HONOURABLE Mr.JUSTICE RMT.TEEKAA RAMAN

H.C.P.No.1947 of 2022

R.Bhargavi

.. Petitioner

Vs.

1.State rep. by
The Superintendent of Police
Namakkal District, Namakkal

2.The Deputy Superintendent of Police
Namakkal Town Range

3.State rep. by
The Inspector of Police
Mohanur Police Station

4.Chitra

.. Respondents

Petition filed under Article 226 of the Constitution of India, praying to
issue a WRIT OF HABEAS CORPUS directing the 3rd respondent viz., The



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Inspector of Police, Mohanur Police Station, Namakkal District to produce the detainee minor Linishka D/o.P.Siva Kumar, female, aged about 6 years before this Court and set her at liberty under the illegal detention by the 4th respondent.

For Petitioner : Mr.C.D.Johnson

For R1 to R3 : Mr.R.Muniyapparaj
Additional Public Prosecutor

For R4 : Mr.R.Surya Kumaran

ORDER

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

It is the case of the petitioner that she got married to Sivakumar, who was working as a Sepoy in the Indian Army; Sivakumar used to be posted at various places and he would come to hometown when he was granted leave; she conceived and delivered a female child on 17.10.2016; after completing 17 years of service, Sivakumar was discharged from the army and he returned home on 02.02.2021; while that being so, Sivakumar was found dead on the road on 06.07.2021, in connection with which, the police



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registered a case in Crime No.572 of 2021; she was falsely implicated in the murder of Sivakumar and was remanded in judicial custody on 08.07.2021; while she was in judicial custody, the custody of the child was with Chitra (4th respondent, who is none other than the sister of Sivakumar and sister-in-law of the petitioner); she (petitioner) was released on bail on 22.10.2021; Chitra is not handing over the custody of the child to her and on these allegations, the present habeas corpus petition has been filed.

2. Today, Mr.R.David Balu, Sub-Inspector of Police, Mohanur Police Station is present before this Court. The petitioner, Chitra and the child are also present before this Court. Initially, the child refused to go to the petitioner, but, a little later, went to her, at our instance.

3. The learned Additional Public Prosecutor submitted that the investigation in Mohanur P.S. Crime No.572 of 2021 was completed and a charge sheet has been filed against the petitioner and 11 others for the murder of Sivakumar.



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4. The averments in the charge sheet show that the petitioner was having illicit intimacy with Selvarasu (A1); along with her mother (A3), they all decided to get rid of Sivakmar; in furtherance of this plan, they approached A-4 to engage hirelings; accordingly, A-4 engaged A-5 to A-11; their first attempt to murder Sivakumar was made on 20.05.2021 by trying to mow him down with a car, which attempt failed, though he sustained injuries; on the second occasion viz., 05.07.2021, Sivakumar was intercepted by the hirelings and done to death, while he was travelling by his motorcycle.

5. As stated above, the petitioner is A-2 in that case and her mother is A-3. Selvarasu (A1) with whom the petitioner is said to have had intimacy, has been arrayed as A-1.

6. Chitra has filed a counter affidavit, wherein, it is stated that the petitioner has filed a petition in G.W.O.P.No.240 of 2022 in the Family Court, Namakkal, for custody of the child and the same is pending.



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7. To be noted, the above factum has not been disclosed in the affidavit filed by the petitioner in support of this petition. In such view of the matter, we are not inclined to grant custody of the child to the petitioner, as proceedings under the Guardians and Wards Act are pending before the Family Court, Namakkal, where, it is open to the petitioner to work out her remedies.

In the result, this habeas corpus petition stands dismissed.

[P.N.P., J.] [T K R, J.]

08.11.2022

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To

1.The Superintendent of Police
Namakkal District, Namakkal

2.The Deputy Superintendent of Police
Namakkal Town Range

3.The Inspector of Police
Mohanur Police Station

4.The Public Prosecutor
High Court, Madras

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