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H.C.P.No.2161 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.11.2022

Coram

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

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L.Srinivasan

.. Petitioner

Vs

1.The Commissioner of Police,
Office of the Commissioner of Police,
Type V, Qtr No.5/1 HVF Estate,
Bhaktavatsalapuram,
Avadi, Chennai – 600 054.

2.The Inspector of Police, (L & O),
T-14, Mangadu Police Station,
Meenakshi Nagar, Mangadu,
Chennai – 600 056.

3.S.Sriram

.. 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



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petitioner's wife Krishnapriya, W/o.L.Srinivasan, aged about 36 years and minor son S.Jaswant, S/o.L.Srinivasan, aged about 5 years, before this Court from the illegal custody of the third respondent and set them at liberty.

For Petitioner : Mr.P.Munusamy

For RR 1 and 2 : Mr.R.Muniyapparaj
Addl. Public Prosecutor

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 his wife *viz.* Krishnapriya, aged about 36 years and son *viz.* S.Jaswant, aged about 5 years and produce them before this Court from the illegal custody of Sriram, third respondent herein and set them at liberty.

2. It is the case of the petitioner that he got married to Krishnapriya on 09.05.2016 and through the wedlock, a son Jaswant was



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born on 11.07.2017; after marriage, Krishnapriya was residing with him at Door No.30/33, 15 Raj Sri Apartment, Krishna Street, EVP Rajeswari Avenue, Madhanandhapuram, Mugalivakkam, Chennai, for some time and thereafter, she shifted to Block-C, Flat-B, Ground Floor, SRM Garden, Mugalivakkam, Manapakkam Main Road, Chennai; on account of marital discord, they got estranged; thereafter, he filed a petition in H.M.O.P.No.860 of 2021 before the V Additional Family Court, Chennai, for restitution of conjugal rights, in which, an *ex parte* order was passed on 17.03.2021; he also filed an application for custody of the child, which was also allowed *ex parte* on 30.04.2021; since Krishnapriya was not complying with the orders, he has initiated contempt proceedings in I.A.No.2 of 2021 in H.M.O.P.No.860 of 2021, in which, certain orders have been passed by the Family Court, Chennai; he also filed a petition for custody in G.W.O.P.No.235 of 2022 in the II Additional Family Court, Chennai, in which, an *ex parte* order has been passed on 20.04.2022; since the whereabouts of his wife and child are not known to him, he lodged a police complaint and has thereafter, filed the present habeas corpus petition.



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3. On 09.11.2022, this Court passed the following order:

“It is the case of the petitioner that there are several orders passed against his wife Krishnapriya in respect of matrimonial as well as custody matters, despite which, she is not appearing before any Court and her whereabouts are not known. On these allegations, the present petition has been filed.

2. Today, Mr.K.Lakshmanaperumal, Sub-Inspector of Police, T-14 Mangadu Police Station [Mobile No.99404 50020], is present.

3. Mr.R.Muniyapparaj, learned Additional Public Prosecutor, connected Krishnapriya via What'sapp video call.

4. We told Krishnapriya about the cases that are pending against her and also afforded free legal aid to her. Krishnapriya stated that she is residing at No.31/1, New No.41, Maruthamalai Gounder Lay-out, Ramakrishnapuram, Ganapathy, Coimbatore - 641 006 and her mobile number is 91766 84236. We also told her that if she does not appear before this Court in response to summons, we would have no other alternative but to issue a warrant for securing her. However, she stated that if sufficient time is given, she would come in person and



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appear before this Court.

In view of the above, list the matter on 23.11.2022 for the presence of Krishnapriya along with the minor boy S.Jaswant before this Court at 10.30 a.m.”

4. Pursuant to the above order, the petitioner (Mobile No.88701 07770) and Krishnapriya (Mobile No.91766 84236) are present before this Court.

5. We told Krishnapriya that she has right to be represented by an Advocate and we offered her legal assistance. She accepted the offer and therefore, we nominated Mr.Vaibhav R Venkatesh (Enrollment No.1444/2011; Mobile No.98849 29222) to represent Krishnapriya. Krishnapriya was served with the copies of the petition and typed set of papers in this case.

6. Krishnapriya told us that she is presently residing at No.31, Maruthamalai Gounder Layout, Ramakrishnapuram, Sathy Road, Ganapathy, Coimbatore – 641006. She further stated that since her son is



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little physical indisposed, she did not bring him from Coimbatore to Chennai for the hearing today.

7. On a conspectus of the facts obtaining in this case, we find that neither Krishnapriya, aged about 36 years, nor Jaswant, aged about 5 years, are in the illegal custody of anyone for the issuance of a writ of habeas corpus.

In such view of the matter, this habeas corpus petition stands closed with liberty to the parties to work out their remedies before the appropriate forum.

J.)
nsd

(P.N.P., J.) (G.C.S.,
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To

1. The Commissioner of Police,
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Type V, Qtr No.5/1 HVF Estate,
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2. The Inspector of Police, (L & O),
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High Court, Madras.



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