



H.C.P.No.2369 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07..12..2022

Coram

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

Habeas Corpus Petition No.2369 of 2022

Mohan Balakrishnan

..... Petitioner

-Versus-

1.The Commissioner of Police,
Tambaram Police Commissionerate,
Tambaram.

2.The Deputy Commissioner of Police,
St. Thomas Mount Police District,
St. Thomas Mount, Chennai.

3.The Inspector of Police,
Pallikaranai Police Station,
Chennai.

4.Mrs. Sujatha Paramasivam

5.Muraliparamasivam

.... Respondents



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Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus directing the respondents 1 to 3 herein to produce the body of the petitioner's minor son – Tharun Mohan, aged 10 years before this court and hand over his custody to the petitioner.

For Petitioner : Mr.B.Kumarasamy

*For Respondents : Mr.R.Muniyapparaj,
Additional Public Prosecutor for
RR1 to 3
Mr.K.Srinivasan 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 respondent 1 to 3 to produce the body of the petitioner's minor son – Tharun Mohan, aged 10 years, before this court and hand over his custody to the petitioner.

2. On 01.11.2022, we passed the following order:-

“On 30.11.2022, this Court passed the following order :

“On 23.11.2022, we passed the following order:
“Mr.R.Muniyapparaj, learned



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Additional Public Prosecutor takes notice for the respondents 1 to 3.

2. Private notice to the respondents 4 and 5 returnable by 30.11.2022.

3. The third respondent/police is directed to produce Sujatha Paramasivam, fourth respondent and the minor child Tharun Mohan, aged about 10 years, before this Court on 30.11.2022.

Post the matter on 30.11.2022.”

2. Today, Mr.N.S.Kumar, Inspector of Police, Mr.M.Sasthrakanni [WGrade-I], T-14, Pallikaranai Police Station [Mobile No.70102 55819], Mr.N.Kathiravan, Sub-Inspector of Police [Mobile No.99525 60197] and Mr.K.Gopalakrishnan, PC51183 [Mobile No.94981 14518], were present.

3.Pursuant to the order dated 23.11.2022, Mohan Balakrishnan [petitioner], Sujatha Paramasivam [fourth respondent], Murali Paramasivam [fifth respondent] and Tharun were also present before us.

4.We are not consciously adverting to the allegations and counter allegations that were made by the parties in these proceedings.

5.After a great amount of mediation and conciliation by us, the parties have themselves agreed to the following course:

“Admittedly, Mohan Balakrishnan [petitioner] got



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married to Sujatha Paramasivam [fourth respondent] sometime in the year 2007 and through the wedlock, they have two children viz., Tharun [10 years] and Jiya [5 years]. Since these children were born in the U.S where Mohan Balakrishnan [petitioner] and Sujatha Paramasivam [fourth respondent] were working, they are natural citizens of that country and hold U.S. passports. On account of marital discord, Mohan Balakrishnan [petitioner] and Sujatha Paramasivam [fourth respondent] had got estranged and now both children are with Sujatha Paramasivam [fourth respondent] in Chennai. It appears that Mohan Balakrishnan [petitioner] had initiated divorce proceedings in Cause No.469-53726-2021 in the District Court, 469th Judicial District, Collin County, Texas, in which an order of divorce and custody of the children had been passed on 31.12.2021 under which, the custody of Tharun has been given to Mohan Balakrishnan [petitioner] and custody of Jiya has been given to Sujatha Paramasivam.”

6.Mohan Balakrishnan [petitioner] has now



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got married to one Harini on 28.10.2022, who is said to be a widow with a child through her first marriage. Mohan Balakrishnan [petitioner] intends to take her and her child to the U.S.

7.Sujatha Paramasivam's [fourth respondent's] visa has expired and therefore, she is constrained to remain in Chennai until she gets a U.S. Visa.

8.When we interacted with Tharun, we found him to be fond of both parents and he told us that he missed the company of his sister Jiya when he was in the U.S. When Mohan Balakrishnan [petitioner] was apprised of this, he stated that as a parent, he does not want to do anything that would affect the two children and he would remain content if free access is provided to him to speak to his children from the U.S. To this, Sujatha Paramasivam [fourth respondent] wholeheartedly agreed and stated that she would not in any manner prevent the children from talking to Mohan Balakrishnan [petitioner] through video calls, etc.

9.Before departing to the U.S., Mohan Balakrishnan [petitioner] requested this Court to have the children with him at least for a week in his house in Kancheepuram. Sujatha Paramasivam [fourth respondent] expressed her apprehension that Mohan Balakrishnan [petitioner] should not take away the children to the U.S. in the guise of keeping them in Kancheepuram. 10.To allay Sujatha Paramasivam's [fourth respondent's] fear, we direct Mohan Balakrishnan [petitioner] to deposit his passport, passport of Tharun and OCI Card of Tharun in this Court immediately. 11.Mohan Balakrishnan [petitioner] stated that he would bring them tomorrow (01.12.2022) and deposit the same as directed by this Court. Sujatha



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Paramasivam is directed to bring the two children on 01.12.2022.

Call on 01.12.2022.”

2. Today, Mohan Balakrishnan, Sujatha Paramasivam, Murali Paramasivam, Tarun and Jiya were present before us.

3. Mohan Balakrishnan submitted his Indian passport bearing No.Z1855225, the U.S. passport and Overseas Citizen of India card of Tarun.

4. We permitted Mohan Balakrishnan to take both the children to Kancheepuram and have them with him till 07.12.2022. The children should be produced before us at 04.30 p.m. on 07.12.2022 and thereafter, Mohan Balakrishnan can collect the passports.

For reporting compliance, post on 07.12.2022 at 04.30 p.m. before this very Bench, after obtaining necessary orders from the Hon'ble Acting Chief Justice, in case of change in roster.”

3. Though in the last paragraph of our order, we had directed that the matter should be posted before the same bench (PNPJ & TKRJ), since the



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Registry had not obtained the necessary orders from the Honourable Acting Chief Justice, we are constrained to take up this matter as per the current roster.

4. Both sides stated that pursuant to the directions of this court, the detenu viz., Tarun and his sister Jiya were with their father Mohan Balakrishnan for a week at Kancheepuram.

5. Today, Mohan Balakrishnan has brought the children and we handed over their custody to Sujatha Paramasivam.

6. Indian passport of Mohan Balakrishnan bearing No.Z1855225 was returned to him under acknowledgement on the petition and the U.S. passport bearing A08790644 and Overseas Citizen of India Card of Tarun were returned to Sujatha Paramasivam under acknowledgement on the petition.

In view of the above, no further orders are required to be passed in this Habeas Corpus Petition and the same is closed with liberty to the parties to workout their remedies in the manner known to law, if so advised.



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(P.N.P., J.) (N.A.V.,J.)
07..12..2022

Index: Yes/No
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To

- 1.The Commissioner of Police,
Tambaram Police Commissionerate,
Tambaram.
- 2.The Deputy Commissioner of Police,
St. Thomas Mount Police District,
St. Thomas Mount, Chennai.
- 3.The Inspector of Police,
Pallikaranai Police Station,
Chennai.
- 4.The Public Prosecutor,
High Court, Madras.



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AND
N.ANAND VENKATESH.J.,

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