



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

and

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

H.C.P. (MD) No.575 of 2022

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M.Umamaheswari

... Petitioner/Mother of the detenu
Vs.

1.The Deputy Superintendent of Police,
O/o.District Superintendent of Police,
Aruppukottai,
Virudhunagar District.

2.The Inspector of Police,
All Women Police Station,
Aruppukottai,
Virudhunagar District.

3.J.Muthuraja

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of Habeas Corpus, directing the respondents 1 and 2 to produce the person or body of the petitioner's son / detenu namely, Shasvanth, aged about 4 years, D/o.Muthuraja, before this Court and hand over the custody to the petitioner.

For Petitioner	: Mr.K.Manoharan
For Respondents 1 & 2	: Mr.T.Senthil Kumar
	Additional Public Prosecutor
For 3rd Respondent	: Mr.Vickram

O R D E R

R.SUBRAMANIAN, J.

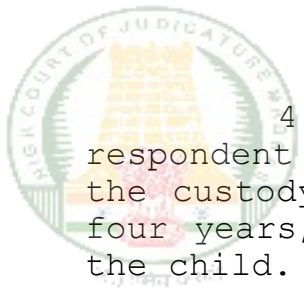
AND

N.SATHISH KUMAR, J.

The petitioner seeks production of her minor son Shasvanth, aged 4 years,

2. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

3. According to the petitioner, the third respondent, who is the father of the minor child, had deserted them and taken the child away with him on 12.12.2021. Complaining inaction on the part of the respondent Police, the petitioner has moved this Court by way of this Habeas Corpus Petition.



4. After filing of this Habeas Corpus Petition, the respondent Police have now secured the child/detenu and handed over the custody of the child to the mother. The child being aged only four years, the mother is normally entitled to have the custody of the child.

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5. The learned counsel appearing for the third respondent would submit that the mother had aborted another child and therefore, she is unfit to have the custody of the child.

6. The petitioner has produced the medical records of the child to show that he is undergoing treatment.

7. Considering the facts and circumstances, we are of the opinion that the custody of the child should be with the mother and the father can visit the child periodically. After the child completes the age of 5 years, it will be open to the father to seek custody before the competent civil Court. Since the custody of the child has been handed over to the mother, this Habeas Corpus Petition is dismissed. It is made clear that the father of the child / detenu will have the right to visit the child on the 1st and 4th Sunday of every English Calendar month at Aruppukottai All Women Police Station, between 10 a.m. and 11 a.m. The parties are free to agree upon any change in the timings also. The Inspector of Police is directed to facilitate such meeting between the father and the child / detenu on the 1st and 4th Sunday of every English Calendar month. It will be open to the third respondent to move the appropriate civil Court in case of any urgency.

Sd/-

Assistant Registrar (P&A)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

Rm

To:

1.The Deputy Superintendent of Police,
O/o.District Superintendent of Police,
Aruppukottai,
Virudhunagar District.

2.The Inspector of Police,
All Women Police Station,
Aruppukottai,
Virudhunagar District.



3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.K. MANOHARAN, Advocate (SR-19322[F] dated 19/04/2022)

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H.C.P. (MD) No.575 of 2022
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SG (CO)

KB (26.04.2022) 3P 5C