



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.06.2022

CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

AND

THE HONOURABLE MRS.JUSTICE S.ANANTHI

H.C.P.(MD) No.811 of 2022

G.Bhuvaneswari ... Petitioner/Mother of the detenu

-vs-

1. The Superintendent of Police,
Thoothukudi District.
2. The Inspector of Police,
All Women Police Station,
Kovilpatti, Thoothukudi District.
3. R.Mariyapparaj
4. Avudiammal
5. Balakrishnan ... 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 detenu by name M.Boomika (Femal child aged 5 months) D/o.Mariyappa Raj before this Court and entrust her custody to the petitioner.

For Petitioner: Mr.R.Anand

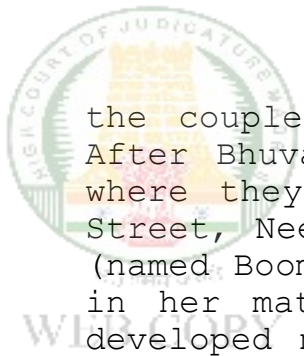
For Respondents : Mr.T.Senthil Kumar,
Additional Public Prosecutor
for R1 and R2
Mr.Babu Rajendran for R3 to R5

O R D E R

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

This habeas corpus petition has been filed seeking to direct the respondents 1 and 2 to produce the petitioner's daughter / detenu M.Boomika (Female child aged 5 months), D/o.Mariyappa Raj and entrust her custody to the petitioner.

2. R.Mariyappa Raj (third respondent) and G.Bhuvaneswari (petitioner) got married on 30.10.2020 in Chennai and thereafter,



the couple lived in Beejapur, where R.Mariyappa Raj was working. After Bhuvaneswari became pregnant, the couple shifted to Chennai, where they were residing in Door No.3/311, Kumaraguru Avenue, 2nd Street, Neelankarai, Chennai. Bhuvaneswari delivered a female child (named Boomika) on 08.11.2021 and she was living with Mariyappa Raj in her matrimonial home in Chennai. It appears that, the couple developed marital discord, and allegations and counter allegations are being made by one against the other, about which, we really do not want to go into in this habeas corpus petition. Suffice it to say, alleging that Mariyappa Raj had forcibly driven away Bhuvaneswari and is not permitting access to the infant M.Boomika, the present habeas corpus petition has been filed.

3. On 25.05.2022, this Court passed the following order:-

"The mother of the detainee has filed the present Habeas Corpus Petition alleging that her husband has taken the custody of the 5 months old minor child, namely, M.Boomika.

2. Mr.T.Senthil Kumar, learned Additional Public Prosecutor takes notice for the respondents 1 and 2. Mr.Babu Rajendran, learned counsel takes notice for the private respondents/R3 to R5.

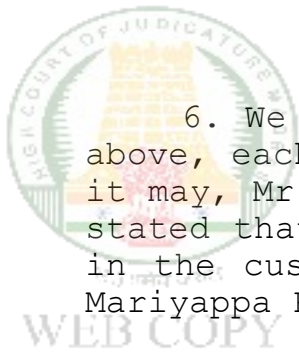
3.Now the learned counsel for the private respondents, on instructions, submits that the petitioner's husband is ready and willing to live with his wife and hence, the matter may be referred to mediation centre for amicable settlement between the parties. 4.The learned counsel for the petitioner/wife also submits that the petitioner is also ready for amicable settlement before the mediation centre.

5.By consent of both the parties, this matter is referred to the Mediation and Conciliation Centre attached to this Bench. The Mediation centre shall explore the possibility of settlement between both the parties including the custody of the child in view of the willingness now has been expressed by both the parties and file a report within a period of three weeks from the date of receipt of a copy of this order.

6. The parties are directed to appear before the Mediation centre shortly as per the date to be fixed by the Mediation Centre.

4. However, the Mediation Centre has sent a failure report dated 08.06.2022, wherein, it is stated that the "parties were not willing to participate in the mediation".

5. Today, when the matter was taken up for hearing, G.Bhuvaneswari, R.Mariyappa Raj and infant M.Boomika were present before us.



6. We heard the grievance of the parties directly and as stated above, each one was making allegations against the other. Be that as it may, Mr.Babu Rajendran, learned counsel for Mariyappa Raj, fairly stated that infant M.Boomika being a five months old baby should be in the custody of her mother but sought for visitation rights for Mariyappa Raj.

7. We also felt that for the paramount interest of the child, the custody should be handed over to Bhuvaneswari and accordingly, we directed Mariyappa Raj to hand over the custody of infant Boomika to Bhuvaneswari and accordingly, he has handed over the child to Bhuvaneswari.

8. Coming to the visitation rights, we direct Bhuvaneswari to bring the child to the Mediation Centre attached to the Family Court, Thoothukudi District, at 10.30 a.m. on the first and third Saturday of every month beginning from 18.06.2022. Mariyappa Raj shall have custody of the child from 10.30 a.m. to 5.30 p.m. on the first and third Saturdays of every month and handover the child to Bhuvaneswari in the evening. We also direct them to appear before the Mediation Centre attached to the Family Court, Thoothukudi, for mediation purposes on 18.06.2022 and subsequently also, because we are of the opinion that, there is every possibility of reunion. This is purely a temporary arrangement and it is open to the parties to approach the appropriate Courts for guardianship and custody, including interim custody in accordance with law. In such an event, the appropriate Court shall pass any orders with regard to custody and interim custody irrespective of the order passed herein. We direct the Family Court, Thoothukudi District, to arrange for mediation between the parties on 18.06.2022 and on subsequent dates.

9. With these directions, this habeas corpus petition stands closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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To:

1. The Superintendent of Police,
Thoothukudi District.



2. The Inspector of Police,
All Women Police Station,
Kovilpatti, Thoothukudi District.

3. The Family Court,
Thoothukudi District.

4. The Mediation Centre,
Family Court, Thoothukudi District.

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

+1 CC to M/s.BABU.RAJENDRAN, Advocate (SR-25508[F] dated
14/06/2022)

H.C.P. (MD) No.811 of 2022

13.06.2022

_RD(17.06.2022) 4P 7C