



H.C.P.(MD) No.1055 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.07.2022

CORAM:

**THE HONOURABLE MR.JUSTICE P.N.PRAKASH
AND
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

H.C.P.(MD) No.1055 of 2022

Noorul Ameen

... Petitioner

-VS-

1. The Superintendent of Police,
Pudukottai District Police Office,
Pudukottai District.

2. The Inspector of Police,
Nagudi Police Station,
Pudukottai District.

3. Raguman Beevi

... 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 body of detenu Noorul Aslin, aged 8 months, daughter of Noorul Ameen (the petitioner herein), before this Court and hand over the custody to the petitioner.



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For Petitioner : Mr.S.C.Herold Singh

For Respondents : Mr.T.Senthil Kumar,
Additional Public Prosecutor

ORDER

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

This habeas corpus petition has been filed seeking to direct the respondents 1 and 2 to produce the body or person of the petitioner's daughter viz., Noorul Aslin, aged 8 months, before this Court and hand over her custody to the petitioner.

2. It is the case of the petitioner that he got married to Jenifer Fathima on 15.09.2013 and through the wedlock, he has three children, two sons viz., Mohammed Arshan, aged eight years, Mohammed Ayaan, aged two and a half year and a daughter, viz., Noorul Aslin, who was born on 02.11.2021.

3. It appears that after the delivery of the third child, Jenifer Fathima had an untimely death due to some post-delivery complications. According to the petitioner, the infant was forcibly taken away from him by the third respondent and therefore, he has filed the present habeas corpus petition.



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4. On notice, the third respondent appeared along with the child and all her relatives, including her son. When we enquired with the third respondent, she stated that the Jamathars had decided that the child should be with her and therefore, the child is being brought up by her.

5. It appears that the matter had gone to the Child Welfare Committee, Pudukottai and an order dated 29.06.2022 has been passed by the Child Welfare Committee advising the parties to resolve their disputes through the appropriate forum.

6. Initially, we were of the impression that the custody of the infant should continue with the third respondent for some time with free visitation rights for the petitioner. However, while we interviewed the third respondent and her son, we found them to be a little defiant, inasmuch as they were accusing the petitioner of having murdered his wife and they were not showing any inclination whatsoever to permit the petitioner to have free access to his own child, at least, in the weekends. When we asked the petitioner to take the infant, it readily went to him.



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The petitioner has his mother and relatives with him and he is bringing up the other two children without any complaint whatsoever. Therefore, the custody of the infant shall be with the petitioner and it is open to the third respondent to approach the appropriate Court for custody, if so advised.

7. In view of the above, this habeas corpus petition is allowed.

[P.N.P., J.] [R.V., J.]
01.07.2022

Index : Yes / No
Internet : Yes / No
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Pudukottai District.
2. The Inspector of Police,
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Pudukottai District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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