



H.C.P.(MD) No.1130 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.07.2022

CORAM:

**THE HONOURABLE MR.JUSTICE P.N.PRAKASH
AND
THE HONOURABLE MRS.JUSTICE R.HEMALATHA**

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Lakshmi

... Petitioner

-VS-

1.The Superintendent of Police,
Kanyakumari District, Kanyakumari.

2.The Inspector of Police,
Aralvaimozhi Police Station,
Kanyakumari District.

3.Dhanraj

4.Mallika

5.Jeyasri

6.Vijayakumar

7.Sudalaiyandi

... Respondents

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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 secure the detainee Aadhithri D/o.Dhanraj, aged about 8 years from the illegal custody of the respondents 3 to 7 and produce her before this Court and hand over the custody of her to the petitioner.

For Petitioner : Mr.T.Lenin Kumar

For Respondents : Mr.T.Senthil Kumar,
Additional Public Prosecutor for R1 & R2

ORDER

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

This habeas corpus petition has been filed seeking to direct the respondents 1 and 2 to secure the detainee Aadhithri, daughter of Dhanraj (the third respondent), aged about 8 years, from the illegal custody of the respondents 3 to 7 and produce her before this Court and hand over her custody to the petitioner.

2. It is the case of the petitioner that her daughter Suba was given in marriage to the third respondent on 20.08.2012 and through the wedlock, she has a daughter, namely, Aadhithri, who is now eight years old. Suba conceived for the second time, but died during child birth on 02.06.2021 but a girl child was born to



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her. This girl child was taken by the third respondent from the petitioner on 04.07.2021 and 22 days later, the third respondent informed the petitioner that the infant had died on 26.07.2021. In such circumstances, the petitioner has filed the present habeas corpus petition for the custody of Aadhithri.

3. In our opinion, the custody of Aadhithri with the third respondent being her father cannot be said to be *per se* illegal and hence, no writ of habeas corpus can be issued. However, it is always open to the petitioner to work out her remedy in the manner known to law by filing an application for custody and guardianship in the appropriate forum.

4. With the above observation, this habeas corpus petition stands closed.

[P.N.P., J.] [R.H., J.]
15.07.2022

Index : Yes / No
Internet : Yes / No
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P.N.PRAKASH, J.
and
R.HEMALATHA, J.

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To:

- 1.The Superintendent of Police,
Kanyakumari District, Kanyakumari.
- 2.The Inspector of Police,
Aralvaimozhi Police Station,
Kanyakumari District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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