



H.C.P.(MD) No.1137 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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N.Mallika

... Petitioner

-VS-

1. The Commissioner of Police,
Trichy City, Trichy.
2. The Assistant Commissioner of Police,
Trichy Range, Trichy City, Trichy.
3. The Inspector of Police,
K.K.Nagar Police Station,
Trichy City, Trichy.
4. Gopinath

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of habeas corpus directing the third respondent to produce the body or person of the petitioner's granddaughter namely Abirami D/o. Gopinath, aged



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about 9 years, before this Court and entrust the custody of the child to the petitioner.

For Petitioner : Mr.K.Sivabalan

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 to produce the body or person of the petitioner's granddaughter viz., Abirami, aged about 9 years, before this Court and entrust the custody of the child to the petitioner.

2. It is the case of the petitioner that, she gave her daughter Rathnamala in marriage to her own brother Gopinath and the marriage was solemnized on 18.01.2010. Through the wedlock, the couple were blessed with a daughter, namely, Abirami, who is now nine years old. Rathnamala suffered dengue fever and she unfortunately passed away on 28.06.2015. Alleging that Abirami is in the illegal custody of Gopinath, the present habeas corpus petition has been filed.



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3. Today, Mr.Ravi, Special Sub-Inspector of Police (94981 57220), K.K.Nagar Police Station, N.Mallika (petitioner herein) and Gopinath (fourth respondent herein) are present with their respective counsel.

4. When enquired by us, Gopinath stated that Abirami is now studying in Oakrich International School (ICSE) at Hosur and that he is an IT professional employed presently in Danske IT, 7A/8B, RMZ Ecoworld, SEZ Campus, Bellandur, Bengaluru – 560 103. It is his allegation that, his sister wants to grab the properties that he has purchased in the name of his daughter Abirami and with that motive, she has been making all sorts of frivolous complaints against him, not only to the police but also to his employer.

5. However, learned counsel for the petitioner strongly refuted the said allegations.

6. Gopinath further stated that unable to withstand the torture of his sister, he has filed a petition in G.W.O.P.No.342 of 2022 in the Family Court, Trichy, against Mallika and the next hearing date is 07.09.2022.



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7. When we asked Gopinath as to why he has filed an application for guardianship when he is the natural guardian for his daughter, he stated that, only to protect himself from the harassment of his sister, he was advised to file the petition for guardianship.

8. Learned counsel for the petitioner submitted that Gopinath has remarried and through the second marriage, he has a child.

9. In response to the aforesaid allegation, Gopinath stated that he has got married to a widow, who was already having a child through her first marriage.

10. Be that as it may, in the aforesaid facts and circumstances, it cannot be stated that Abirami is in the illegal custody of Gopinath for the issuance of writ of habeas corpus. We also direct the third respondent police not to harass Gopinath on such frivolous complaints of the petitioner.



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WEB COPY 11. In the result, this petition is dismissed with the aforesaid observation and direction.

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

Index : Yes / No
Internet : Yes / No
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2. The Assistant Commissioner of Police,
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4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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