



H.C.P(MD)No.1510 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 18.11.2022

CORAM

**THE HON'BLE MR.JUSTICE M.S.RAMESH
AND
THE HON'BLE MR.JUSTICE N. ANAND VENKATESH**

H.C.P.(MD)No.1510 of 2022

V.Raja

.. Petitioner / grandfather of the
detenu

Vs

1. The Commissioner of Police,
Madurai City.
2. The Inspector of Police,
Mattuthavani Police Station,
Madurai City.
3. The Inspector of Police,
Kadupati,
Thirumangalam Taluk,
Madurai- 625 207.
4. The Inspector of Police,
Kadupatty Police Station,
Thirumangalam Taluk,
Madurai District.

.. Respondents

[R4 is *suo motu* impleaded as per order of the Court
dated 10.10.2022 in H.C.P(MD)1510/2022 by JNBJ&NAVJ]



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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 to produce in person or the body of the petitioner's two minor grand daughters namely, P.Naga Prathiksha, D/o.Prakash(aged 6 years) and P.Sachitha Reena, D/o.Prakash (aged 5 years) before this court and hand over the custody of them to the petitioner.

For Petitioner : Mr.N.Karthik Kanna

For Respondents : Mr.A.Thiruvadi Kumar

Additional Public Prosecutor

ORDER

N. ANAND VENKATESH, J.

Pursuant to the order passed by this Court on 19.09.2022 and 10.10.2022, the case was mentioned before this Court on the ground that the detenu along with the children has been secured by the respondent police and hence we permitted the case to be listed in the afternoon session.

2.The detenu Jeevitha was present before this Court along with her two children. The petitioner was present before this Court. The husband of the detenu was also present before this Court. The police had also secured



the third respondent and he was also present before this Court.

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3. We enquired the detenu Jeevitha and she stated that she got married with Prakash in the year 2015 and two children were born out of the said wedlock. There was some misunderstanding between the detenu and the said Prakash and they were living apart for more than a year. The detenu had developed an affair with the third respondent and she eloped with the third respondent along with the two kids. The detenu stated that she is taking care of the children and even the third respondent is showering love and affection on the children. She further stated that there is irretrievable break down of marriage and steps will be taken to dissolve the marriage.

4. The petitioner, who was present before this Court stated that there was misunderstanding between the detenu and her husband and the grand children were taken care only by the petitioner and his wife. He further stated that if the marriage is dissolved between the detenu and the above said Prakash, he will get his daughter married with the third respondent and till then the children can be in the custody of the detenu.



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5. The husband of the detenu, namely, Prakash stated that there is irretrievable break down of marriage and hence he is not interested in continuing with the marital relationship with the detenu.

6. In the considered view of this Court, the marriage between the detenu and the above said Prakash has almost reached its end and hence both of them will have to take steps to dissolve the marriage in accordance with law. Considering the facts and circumstance of the case, we deem it fit to permit the children to continue in the custody of the detenu. After the marriage is dissolved, the detenu can marry the third respondent. The detenu undertakes that she will take care her children and allow her children to spend time with the petitioner and his wife, who are the grandparents.

7. This Habeas Corpus Petition is disposed of accordingly.

(M.S.R.,J.) & (N.A.V.,J.)
18.11.2022

Index : Yes/No
Internet : Yes
PJJ



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

N. ANAND VENKATESH,J.

PJL

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