



HCP(MD)No.1795 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.11.2022

CORAM

THE HONOURABLE MR.JUSTICE M.S. RAMESH
AND
THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

HCP (MD).No.1795 of 2022

Prabadevi

: Petitioner

Vs

1.The Superintendent of Police
Madurai District
Madurai.

2.The Inspector of Police,
Thirumangalam All Women Police Station,
Madurai District

3.I.Kannadhasan

: Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Habeas Corpus to direct the respondents 1 and 2 to produce the body or person of the detenu by name minor child Shamikan, S/o.Kannadhasan aged about 3 years before this Court and hand over the custody of the detenu to the petitioner.



WEB COPY



HCP(MD)No.1795 of 2022

For Petitioner : Mr.M.Manavalan
For Respondents : Mr.A.Thiruvadikumar for R1 & R2
Additional Public Prosecutor
Mr.S.Moorthy for R3

ORDER

(Order of the Court was made by N. ANAND VENKATESH,J.)

When the Habeas Corpus Petition came up for hearing on 08.11.2022, this Court passed the following order:

“Pursuant to the earlier order passed by this Court on 01.11.2022, the matter was posted for hearing today.

2.The third respondent produced the detenu/child. We enquired both the petitioner and the third respondent.

3.The petitioner stated that she is not living with the third respondent for the last three years and there is a broken relationship. The petitioner further stated that she was taking care of the child and all of a sudden on 19.10.2022, the child was forcibly taken away by the third respondent.

4.The third respondent stated that he was not allowed to see the child by the petitioner and as the father of the child, he took the custody of the child and took care of the child. The third respondent was not even willing to hand over the child to the petitioner.

5.Taking into consideration the facts and circumstances

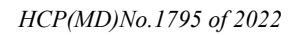


WEB COPY

of the case and also the fact that the child is only aged about 3 years, we deem it fit that the custody of the child for the present must remain with the petitioner/mother. In any case, the petitioner has taken care of the child till 19.10.2022. Hence, we directed the third respondent to hand over the custody of the child to the petitioner and accordingly, the custody of the child was handed over to the petitioner. The third respondent is none other than the father of the child and he should be given visiting rights of the child, as the child would get the love and affection of his father also.

6. In view of the above, as an interim arrangement, we direct that the child shall remain in the custody of the petitioner and the third respondent will be permitted to have visitation rights twice a week. The third respondent shall visit the child this week on 09.11.2022 and 13.11.2022 between 03.00 p.m., to 06.00 p.m. Similarly, the third respondent shall visit the child on 16.11.2022 and 20.11.2022 at the same time. The third respondent shall visit the child in the residence of the petitioner. The petitioner shall not object the third respondent to visit the child on the date and time fixed by this Court.

7. The second respondent police shall ensure that the parties do not create any law and order problem and the child is not put to any hardship due to the strained relationship between the petitioner and the third respondent. We will



8.Post this Habeas Corpus Petition on 22.11.2022.”

3. We are not inclined to go into the merits of this case. Considering the facts and circumstances of the case and also considering the fact that the child was always under the custody of the petitioner till 19.10.2022 when the third respondent forcibly took away the child, we deem it fit to direct the child to continue in the custody of the petitioner. It is left open to the third respondent to work out his remedy before appropriate Court and seek for the custody/visitation right of the child.



HCP(MD)No.1795 of 2022

4. This Habeas Corpus Petition is disposed of with the above direction.

WEB COPY

[M.S.R.,J] [N.A.V.,J]
22.11.2022

Index : Yes / No
Internet : Yes
RR

To

1. The Superintendent of Police
Madurai District
Madurai.

2. The Inspector of Police,
Thirumangalam All Women Police Station,
Madurai District

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



WEB COPY



HCP(MD)No.1795 of 2022

M.S. RAMESH, J.
AND
N.ANAND VENKATESH, J.

RR

HCP(MD).No.1795 of 2022

22.11.2022