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H.C.P.(MD)No.1993 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.11.2022

CORAM

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

H.C.P.(MD)No.1993 of 2022

Abitha Begam

... Petitioner

/Vs./

1.The Assistant Superintendent of Police,
O/o. Assistant Superintendent of Police,
Karaikudi Taluk,
Sivagangai District.

2.The Inspector of Police,
South Police Station,
Karaikudi,
Sivagangai District.

3.Tamilarasan

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, directing the respondents Nos.1 and 2 to produce the body or person of petitioner's daughter namely Ameerashiba, daughter of Syed aged about 18 years before this Court and set her at liberty.

For Petitioner : Mr.P.Ponraj



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For Respondents : Mr.A.Thiruvadi Kumar (R1 & R2)
Additional Public Prosecutor

ORDER

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

This petition has been filed by the mother of the detainee on the ground that her daughter, Ameerashiba has been illegally detained by the third respondent and she went missing from 14.10.2022.

2. The learned Additional Public Prosecutor, on instructions, submitted that based on the complaint given by the petitioner, an enquiry was conducted and it was ascertained that the detainee and the third respondent got married and they had also sent a whatsapp video message to the effect that they have sought for protection against the parents of both sides. The learned Additional Public Prosecutor further submitted that subsequent to the enquiry conducted by the Assistant Commissioner of Police, Karaikudi, the complaint given by the petitioner was also closed. It was also brought to our notice that the detainee has independently given a



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complaint seeking for police protection.

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3. We had the benefit of hearing to the whatsapp video that was sent by the detainee. The detainee, who is aged about 18 years clearly states that she got married with the third respondent and that they are now living in Chennai and she is not interested in joining with the parents. That apart, she also states that there is threat from her parents side.

4. The learned counsel appearing for the petitioner submitted that the petitioner wants to see the detainee and hence, a direction may be issued to the respondent police to produce the detainee.

5. The Writ of *Habeas Corpus ad subjiciendum* is to test the legality of the custody of a detainee. When admittedly the detainee is aged above 18 years and has expressed her intention to stay with the third respondent, we do not intend to exercise our jurisdiction under Article 226 of the Constitution of India for directing a Writ of Habeas Corpus, since the detention is not illegal.



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6. Taking into consideration the facts and circumstances of the case and the stand taken by the detinue, we cannot force the detinue to join with the petitioner. In view of the same, this Habeas Corpus Petition stands closed.

(M.S.R.,J.) (N.A.V.,J.)
29.11.2022

Index : Yes/No
Internet : Yes
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Sivagangai District.
- 2.The Inspector of Police,
South Police Station,
Karaikudi, Sivagangai District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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M.S. RAMESH, J.

and

N. ANAND VENKATESH, J.

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Order made in
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Dated
29.11.2022