



H.C.P.(MD) No.2103 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.12.2022

CORAM:

**THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN
AND
THE HON'BLE MR JUSTICE SUNDER MOHAN**

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D.Nathiya

... Petitioner

-VS-

- 1.The Commissioner of Police,
Commissioner Office,
Madurai.
- 2.The Superintendent of Police,
Superintendent of Police Office,
Madurai District.
- 3.The Inspector of Police,
All Women Police Station,
Melur, Madurai District.
- 4.M.Vijay

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of Habeas Corpus, directing the respondents 1 to 3 herein to produce the person or body of the petitioner's minor daughters Pragathi and Prajna, aged



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about 11 years respectively before this Court and handed over them custody to the petitioner.

For Petitioner	: Mr.A.Ganesan
For R1 to R3	: Mr.A.Thiruvadikumar Additional Public Prosecutor
For R4	: Mr.K.Prabhu

ORDER

DR.G.JAYACHANDRAN,J.
AND
SUNDER MOHAN,J.

The petitioner is the mother of twin female children, who are presently in the custody of the father.

2. Earlier, the petitioner filed H.C.P(MD)No.1633 of 2021 alleging that the daughters, who are in custody of her husband and his family members, are being subjected to cruelty taking advantage of her absence. In that habeas corpus petition, she has stated that her husband has filed H.M.O.P.No.230 of 2019 for divorce and G.W.O.P.No.443 of 2019 for custody of the children, who were under her custody at that point of time. Further, she has filed H.M.O.P.No.443 of 2019



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for restitution of conjugal rights. In the said circumstances, the parties have resolved their dispute and reunited. Reunion was sorted, this time, the petitioner left her husband and children and came to parental home at Melur. In the said circumstances, when habeas corpus petition for production of the child was filed, this Court, passed an order, dated 30.11.2021 with certain observations and directions, but it was kept in abeyance subsequent to the modification petition filed by this petitioner.

3. The said modification petition in CrI.M.P.(MD)No.11331 of 2021 came up for consideration before this Bench and on 25.04.2021 this Court recalled the earlier order, dated 30.11.2021 which has subsequently kept in abeyance and directed the parties to approach the Civil Court and the Civil Court shall decide the issue of custody independently without being influenced by any observation made by the Court.

4. In the said circumstances, the petitioner has given a complaint to the police alleging that her husband is a psychiatric patient and mentally ill. Though she was directed to file Guardian Original Petition before the appropriate Court,



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she is unable to file a petition since whereabouts of the children not known to her and she went to last known address of her husband at Bangalore, she could not find him. Therefore, the present Habeas Corpus Petition is filed to produce the body of the minor children. Her husband is arrayed as fourth respondent.

5. Mr.K.Prabu, learned counsel appearing on behalf of the fourth respondent has submitted that presently the fourth respondent is residing in the following address:

“M.Vijay
No.131, Near Chandana Part,
Behind SBI Bank,
Siragte, Tumkur,
Karnataka-572 106.”

He is gainfully employed at Bangalore and taking care of the minor children properly and providing best education to them.

6. This Court is inclined to look into all those issues since this Court dealt with the matter at length on three occasions. For the purpose of this Habeas Corpus Petition since the petitioner has expressed that she has not able to find the whereabouts of the minor children to take appropriate proceedings before the



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Court which has territorial jurisdiction, it is suffice that the address furnished by the fourth respondent about his residence will enable the petitioner to proceed as per the direction of this Court passed in her modification petition filed along with earlier H.C.P.(MD)No.1633 of 2021 has been narrated above.

7. Therefore, this Court dismissed the Habeas Corpus Petition as devoid of merits.

Index : Yes / No
Internet : Yes / No
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[G.J.,J.] [S.M.,J.]
23.12.2022



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- 3.The Inspector of Police,
All Women Police Station,
Melur, Madurai District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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