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H.C.P.No.233 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.02.2023

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THE HONOURABLE MR.JUSTICE M.SUNDAR

and

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

H.C.P.No.233 of 2023

B.Dilshad Begum
W/o.M.Manzoor Ilahee

.. Petitioner

Vs.

1. The Superintendent of Police
Dharmapuri District
Dharmapuri.
2. The Sub Inspector of Police
All Women Police Station
Palacode, Dharmapuri District.
3. Monsoor Illahi
S/o.Ibrahim
4. Ibrahim
5. Gulshar Begum

.. Respondents



H.C.P.No.233 of 2023

Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of habeas corpus to direct the 2nd respondent to produce the petitioner's minor girl xxxxx aged about 3 years before this Honourable Court and hand over to the petitioner.

For Petitioner : Mr.Venkatesh S.
For Respondents 1 & 2 : Mr.R.Muniyapparaj
Additional Public Prosecutor

ORDER

[Order of the Court was made by M.SUNDAR, J.,]

Captioned 'Habeas Corpus Petition' [hereinafter 'HCP' for the sake of brevity and convenience] has been filed by mother of absentee (we are refraining from giving the name with the intention of masking).

2. Mr.S.Venkatesh, learned counsel on record who is before us submits that the petitioner and third respondent are spouses, the fourth and fifth respondents are petitioner's parents-in-law.

3. Learned counsel on record for petitioner submits that the petitioner and third respondent have a three year old daughter (absentee) from the wedlock. Specific and categoric case of the petitioner is, on 23.01.2023, third respondent (petitioner's spouse / husband) and her parents-in-law (fourth and fifth respondents) insisted the petitioner to give consent for

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divorce. Thereafter, third respondent had taken away his child i.e., the three year old absentee is the case of the petitioner. The petitioner wants custody and guardianship of the absentee.

4. Be that as it may, the petitioner has given a complaint on the file of second respondent and CSR being CSR No.17 of 2023 dated 25.01.2023 has been registered. From the narrative thus far, it is clear that it is a case of a tussle between two parents for custody and guardianship of a minor child. It is nobody's case that the absentee is in illegal custody of anyone. It is therefore, open to the petitioner to work out her remedies in appropriate Forum / Fora. However, we are expressing no opinion on the second respondent from proceeding in accordance with law qua the aforementioned complaint qua CSR. As it is not a case of illegal detention, captioned HCP is disposed of as closed. There shall be no order as to costs.

(M.S.,J.)

(M.N.K.,J.)

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Index : Yes / No

Speaking / Non-speaking

Neutral Citation : Yes / No

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M.SUNDAR, J.,
and
M.NIRMAL KUMAR, J.,

mk

To

1. The Superintendent of Police
Dharmapuri District
Dharmapuri.
2. The Sub Inspector of Police
All Women Police Station
Palacode, Dharmapuri District.
3. The Public Prosecutor
High Court, Madras.

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