



H.C.P.No.425 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.03.2023

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR
and

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

H.C.P.No.425 of 2023

Rebecca Thomas
W/o.Mark Antony Thomas
Vs. Petitioner

1. State by
Commissioner of Police
No.132, EVK Sampath Road
Vepery, Periyamet
Chennai – 600 007

2. The Inspector of Police
V1, All Women's Police Station
Villivakkam, Chennai – 600 049 Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of habeas corpus directing the 2nd respondent to produce the petitioner's husband Mr.Mark Antony Thomas, aged about 45 years, daughter Simran Sandra Thomas, aged about 20 years and son Ethan Joshua Thomas, aged about 11 years before this Court and set them at liberty.

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For Petitioner : Mr.Ralph V.Manohar
For Respondents : Mr.R.Muniyapparaj
Additional Public Prosecutor
Assisted by
Mr.M.Sylvester John, Advocate

ORDER

[Order of the Court was made by N.ANAND VENKATESH, J.,]

The wife has knocked the doors of this Court by filing the Habeas Corpus Petition to produce her husband and two children.

2. The learned counsel for the petitioner submitted that her husband has taken custody of the two children and the petitioner is not even aware about the whereabouts of the husband. That apart, a complaint was also given to the second respondent and no action was taken on the complaint. Left with no other option, present Habeas Corpus Petition has been filed before this Court.

3. Mr.R.Muniyapparaj, learned Additional Public Prosecutor, on instructions from Inspector of Police, All Women Police Station, Villivakkam submitted that the petitioner had given a complaint on 24.12.2022 and the same was taken on file in Petition No.1552 of 2022, the



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parties were called and enquired and the petitioner had informed the second respondent that she would approach the concerned Court and seek for the custody, accordingly the complaint was also closed and therefore, the children cannot be held to be in the illegal custody of the father and sought dismissal of the habeas corpus petition.

4. In the considered view of this Court, the children are admittedly in the custody of the father. The same by no stretch of imagination can be termed as illegal custody. Hence, the petitioner has chosen a wrong forum and it would be more appropriate to approach the concerned Court and seek for custody of the children. Except giving this clarity, no further order can be passed in this Habeas Corpus Petition. It is made clear that rights of the parties are preserved and it is left open to them to approach the appropriate forum.

In the light of the above, Habeas Corpus Petition is closed.

(M.S.,J.)

(N.A.V.,J.)

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Neutral Citation : Yes / No

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3. The Public Prosecutor
High Court, Madras.



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and
N.ANAND VENKATESH.,

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