



H.C.P.No.681 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.04.2023

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR
and

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

H.C.P.No.681 of 2023

Deepika
W/o.Suresh Babu

.. Petitioner

Vs.

1. State Rep. by
The Commissioner of Police
Avadi Police Commissionerate
Avadi, Chennai-600 054.

2. The Inspector of Police
All Women Police Station
Thirumangalam, Chennai-625 706.

3. Suresh Babu
S/o.Sudhakar

..Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of habeas corpus to direct the second respondent to produce the petitioner's minor child Ershitha aged 4 years, before this Hon'ble Court from the illegal custody of the third respondent and hand over

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to the petitioner.

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For Petitioner : Mr.S.Arunkumar
For Respondents : Mr.R.Muniyapparaj
Additional Public Prosecutor
assisted by
Mr.M.Sylvester John, Advocate
for R1 and R2
Ms.Soundariya .G, for R3

ORDER

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

The petitioner, who is the mother of minor daughter aged about 4 years, lodged a complaint with the second respondent police on 21.03.2023. On receipt of the complaint, CSR number in CSR No.80 of 2023 was assigned but thereafter, no action taken. The petitioner is unable to meet her minor daughter, she has been deprived of love and affection of her daughter and hence she filed the present 'Habeas Corpus Petition' ['HCP' for the sake of convenience and clarity] before this Court.

2. Mr.R.Muniyapparaj, learned Additional Public Prosecutor, assisted by Mr.M.Sylvester John, learned counsel who accepts notice for the



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respondents 1 and 2 submits that the petitioner and third respondent married on 09.12.2016 and it was a love marriage and from the wedlock, they got a minor daughter aged about 4 years, due to some matrimonial dispute between the petitioner and third respondent, they are living separately from 22.01.2023. He further submitted that two months thereafter, the petitioner lodged a complaint with second respondent, who assigned CSR number and investigation is in progress. During the enquiry, it reveals that it is only a matrimonial dispute between the petitioner and third respondent and hence the matter has been referred before a counselor, the petitioner and second respondent attended two meetings on 24.03.2023 and 12.04.2023 and the next counseling is scheduled on 05.05.2023.

3. In the meanwhile, the third respondent filed HMOP No.1467 of 2023 before the Sub-Court, Ambattur seeking restitution of conjugal rights. Now, the minor daughter is with her father (third respondent) and steps are taken to reconcile the issue. The third respondent along with minor daughter present before this Court but the petitioner is not present before this Court. The minor daughter appears to be comfortable. It is further



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submitted that the petitioner left the matrimonial home on 22.01.2023, she visited the third respondent during February 2023 and had interaction with the child. The petitioner is residing one street away from the house of the third respondent. It is submitted that the third respondent will take his minor daughter to the next mediation meeting before the Counselor which is scheduled on 05.05.2023 and on that day, the petitioner can have interaction with the minor daughter. The third respondent has no objection for the petitioner having interaction with the minor but without creating any unpleasant situation.

4. Considering the fact that the minor daughter is with her father, there is a matrimonial dispute, already HMOP filed before the Sub-Court, Ambattur, counseling, is in progress and next counseling meeting is on 05.05.2023, this Court is of the view that it would be appropriate to continue mediation by the counselors, thereafter depending upon the outcome, respective parties to approach the GAWA Court and workout their remedies in the manner known to law. Since it is a tussle for the minor daughter between two parents, all the rights and contentions of both parties are preserved.



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WEB COPY 5. With the above observations, the 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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2. The Inspector of Police
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and
M.NIRMAL KUMAR, J.,

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