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H.C.P.No.2312 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.12.2023

CORAM :

THE HONOURABLE MR. JUSTICE S.S. SUNDAR

AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

H.C.P.No.2312 of 2023

S.Vijayalakshmi

... Petitioner

Vs.

1.The Commissioner of Police,
Tambaram City Police, Tambaram,
Chennai.

2. State Rep. by
The Inspector of Police,
Thazhambur Police Station,
Pallikaranai, Chennai

3. R.Sampath Kumar

... Respondents

Prayer : Habeas Corpus Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Habeas Corpus to direct the 1 and 2 respondents to produce the petitioner's minor child namely Vetrivel aged about 7 years before this Court from the custody of the 3rd respondent and handover to the petitioner.

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For Petitioner : Mrs.K.Lakshmi Priya

For Respondents : Mr.E.Raj Thilak (for R1 & R2)
Additional Public Prosecutor
Ms.C.Sindhuja (for R3)

ORDER

(Order of the Court was made by **S.S. SUNDAR, J.**)

This Habeas Corpus Petitioner is filed by the petitioner, seeking a direction to the respondents 1 and 2 to produce her minor child namely Vetrivel aged about 7 years before this Court from the custody of the 3rd respondent and handover the minor child to her.

2. This Court after spending some time, by holding enquiry and having conversation with all the parties and the minor child, referred the matter before the Mediation Centre.

3. The Mediator after spending substantial time with the parties, has submitted a Mediation Report after persuading parties to agree for the terms



which would be in the best interest of the child as well as the parties.

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4. After several hours of discussion the parties have agreed before the Mediator to the following terms.

6.The arrangement would be temporary, pending G.W.O.P., HMOP No.57/2022 and HMOP No.1312/2023 before the Nilgiris Dt. Court and Alandur Court.

7.The Child's primary custody till the disposal of GWOP shall be with his father, the 3rd respondent herein.

8.The petitioner would have joint custody / visitation rights of the child, Vetrivel, from Friday evenings to Sunday evenings. The said arrangement would be in Gudalur where the 3rd respondent has rented a house and provided to the petitioner for her stay. The 3rd respondent would also stay in the said house in the nights till the child feels comfortable to stay without the father. The 3rd respondent would like to state that this would be without prejudice to his GWOP for permanent custody and HMOP for divorce. Similar reiteration is made by the petitioner who has filed a petition for restitution of conjugal rights. She also states that she has also filed a GWOP for the custody of her son and this arrangement of visitation/temporary custody on weekends would be without prejudice to the same.

9.The petitioner would have temporary custody of the child for 50% of the long holidays such quarterly, half-yearly and annual school holidays and other long festival holidays commencing from 2024. Any travel arrangements involving the child would be discussed in advance between the parties and both parties would co-operate with each other for the welfare of the child. The stay bifurcation may be decided on weekly basis or day basis.

10.Both parties have intimated to the mediator that they shall not interfere with



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each other during the other times and would all times co-operate with each other in issues involving the child.

11.The mediation was closed accordingly.

12.The terms as the above between them would be temporary till the disposal of and without prejudice to their petitions for divorce, restitution of conjugal rights and custody.”

5. Even though the parties once again suggested small variations from the terms which they have agreed before the Mediator, this Court finds that the terms found in the mediation report and extracted above appears to be fair and we are convinced that the terms would be in the best interest of the minor as well as the parents.

6. Therefore, this Court directs the parties to adhere to the terms of the mediation report till the disposal of the pending proceedings before the family Court. It may be open to the parties to approach this Court for any clarification.

7. With the above directions, the Habeas Corpus Petition stands closed.



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(S.S.S.R., J.) (S.M., J.)
22.12.2023

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Index : Yes / No

Neutral Citation : Yes / No

Speaking/Non-Speaking Order
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To

1. The Commissioner of Police,
Tambaram City Police, Tambaram,
Chennai.
2. The Inspector of Police,
Thazhambur Police Station,
Pallikaranai, Chennai
3. The Public Prosecutor,
High Court, Madras.



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S.S. SUNDAR, J.
and
SUNDER MOHAN, J.

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