



HCP(MD)No.151 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 02.02.2023

CORAM

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

H.C.P.(MD)No.151 of 2023

Nirmaladevi

.. Petitioner /Mother of the detenu

Vs.

1.The Superintendent of Police,
Virudhunagar,
Virudhunagar District.

2.The Inspector of Police,
All Women Police Station,
Virudhunagar,
Virudhunagar District.

3.The Inspector of Police,
Amathur Police Station,
Virudhunagar,
Virudhunagar District.

4.Karuppasamy

.. 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 to cause the



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production of the body or person of the detinue/the petitioner's minor child named Gurulakshman S/o.Karuppasamy, aged about 1 ½ years before this Court from the unlawful custody of the 4th respondent and hand over the minor child to the custody of the petitioner.

For Petitioner	:Mr.G.Mariappan
For R1 to R3	:Mr.R.Meenakshi Sundaram Additional Public Prosecutor
For R4	: Mr.S.Ramasamy

ORDER

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

The mother of 1 ½ years old child has filed this habeas corpus petition alleging that her husband, who is the father of the child, is having the custody of the child and the said custody is illegal, therefore, the writ of habeas corpus should be issued for production of the minor child.

2. This Court has time and again reiterated that the custody of the minor child by the parents cannot be sorted out in a habeas corpus petition. The parties has to resort to the procedure established under law. Invoking



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under article 226 of the constitution for the custody of the child tantamount to abuse of process of law.

3. It is seen from the petition that already husband has initiated the divorce proceedings before the Sub-Court, Virudhunagar alleging the petitioner has deserted him leaving the child with him. These are all facts to be proved through proper trial and therefore, this habeas corpus petition is dismissed with liberty to the petitioner to work out their remedy before the appropriate forum. If any such petition is filed for custody, the Court shall take independent decision based on the evidence.

(G.J.,J.) (S.M.,J.)
02.02.2023

Index :Yes/No
Internet:Yes/No
NCC :Yes/No
am



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Virudhunagar,
Virudhunagar District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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DR G.JAYACHANDRAN,J.
and
SUNDER MOHAN,J.
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ORDER MADE IN

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