



HCP(MD)No.411 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 10.04.2023

CORAM

The Honourable Mr. Justice **R.SURESH KUMAR**
and
The Honourable Mr. Justice **K.K.RAMAKRISHNAN**

H.C.P.(MD)No.411 of 2023

M.Pandi

.. Petitioner

Vs.

1.The Superintendent of Police,
O/o.The Superintendent of Police,
Ramanathapuram District.

2.The Inspector of Police (AWPS)
Rameshwaram Police Station,
Ramanathapuram District.

3.Mr.Renganathan

.. Respondents

Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus directing the first and second respondents to produce the person or body of detainee (son of the petitioner) namely Nagamithran aged about 2 years before this Court and hand over the custody of the detainee of the petitioner since he is a minor.



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For Petitioner :Mr.G.Karuppasamy Pandiyan
For Respondents :Mr.E.Antony Sahaya Prabahar
Additional Public Prosecutor for R1 & R2
:Mr.R.L.Dhilipan Pandian for R3

ORDER

[Order of the Court was made by **R.SURESH KUMAR, J.**]

This Habeas Corpus Petition has been filed for a direction to the first and second respondents to produce the person or body of detenu (son of the petitioner) namely Nagamithran aged about 2 years before this Court and hand over the custody of the detenu of the petitioner since he is a minor.

2. It is the case of the petitioner that he is the father of the detenu, namely, Nagamithran, aged 2 years, who is born on 23.06.2021. Thereafter, his mother, ie., the wife of the petitioner becomes sick and from that day she gave birth to the detenu, the detenu along with his mother, ie., the wife of the petitioner were in their parental home and subsequently, the petitioner's wife died on 29.12.2022 and thereafter, the petitioner moved this petition as if the detenu has been in the illegal custody of the parents of her wife at the behest of the third respondent, who is none other than the brother-in-law of



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the petitioner.

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3. We heard the learned counsel for the petitioner, the learned Additional Public Prosecutor for the official respondents and the learned counsel for the third respondent.

4. Even according to the averments made in the affidavit filed in support of the petition from the date of birth of the detenu ie., on 23.06.2021, till the date of death of his wife, the detenu was with his mother, ie., the petitioner's wife. It is not the case of the petitioner that the detenu was with him under his care and custody.

5. It is the case of the third respondent that after marriage, knowing fully well that the mother of the detenu suffered from some chronic disease, the petitioner abandoned her and the detenu has been continuously living with her parents and from the date of birth of the detenu, he was nurtured only by her parents and therefore, at this juncture, the plea raised by the petitioner that the detenu is in the illegal custody at the hands of the third respondent cannot be taken into account.



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6. If at all the petitioner claims that right over the custody of the detenu as a father being a natural guardian, it is for him to approach the appropriate Court to seek for his personal law remedies and insofar as this Habeas Corpus Petition is concerned, it cannot be stated that the detenu is in the illegal custody at the hands of the third respondent or anyone else. Recording the afore-stated, this petition is dismissed.

(R.S.K.,J.) (K.K.R.K.,J.)
10.04.2023

Index : Yes/No

Internet : Yes

RR



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3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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and
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