



H.C.P.(MD) No.472 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 12.04.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

AND

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

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P.Chithra

... Petitioner / Mother of the Detenue

Vs.

1.The Superintendent of Police,

Ramanathapuram, Ramanathapuram District.

2.The State rep. by its

The Inspector of Police,

A.W.P.S. Ramanathapuram Police Station,

Ramanathapuram District.

3.Karthik

...Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, to direct the 2nd respondent to produce the person or body of the petitioner's son, namely, G.K.Akilan, aged about 3



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years before this Court and handover the custody of the detenue G.K.Akilan to the petitioner.

For Petitioner : Mr.A.Feroz Khan
For R1 & R2 : Mr.RMS.Sethuraman,
Additional Public Prosecutor

ORDER

(Order of the Court was made by ***R.SURESH KUMAR, J.***)

The petitioner, seeking production of her son, namely, G.K.Akilan, aged about 3 years, has filed this Habeas Corpus Petition.

2.The petitioner is the mother of the detenue, ie., three years old child, who, according to the petitioner, had been taken by the 3rd respondent and since the detenue is being three years old child and the petitioner, who is the mother of the detenue, is being natural guardian, she wants the child to be returned back and in this context, proper facts have not been projected in this Habeas Corpus Petition.



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3.It has been revealed by the learned Additional Public Prosecutor for the official respondents that already a complaint had been given as if that the detainee child has been forcibly taken by the 3rd respondent, who is the husband of the petitioner and the father of the child ie., the detainee and it has also been revealed by the petitioner at the time before the concerned Police Station ie., 2nd respondent Police that the marriage solemnized between the petitioner and the 3rd respondent was second marriage for both and out of which, the detainee child born, who is three years old and because of the strained relationship between them, the petitioner claimed that she had already filed a petition seeking divorce, which is pending before the concerned Court.

4.If the petition seeking divorce already filed is pending, where whatever the relief now has been sought for through this Habeas Corpus Petition could have been asked for and insofar as the plea raised in this Habeas Corpus Petition is concerned, it comes to the notice of this Court that the detainee child is not in illegal custody. As the child is in safe custody of the 3rd respondent, who is none other than the father of the



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detenue child, we cannot construe it as illegal custody. Hence, recording the same, we feel that this Habeas Corpus Petition can be closed, accordingly, it is closed.

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

12.04.2023

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

MYR

To

- 1.The Superintendent of Police,
Ramanathapuram, Ramanathapuram District.
- 2.The Inspector of Police,
A.W.P.S. Ramanathapuram Police Station,
Ramanathapuram District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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AND

K.K.RAMAKRISHNAN, J.

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