



H.C.P(MD)No.502 of 2023

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.06.2023

CORAM

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR
and
THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

H.C.P.(MD)No.502 of 2023

M.Maharaja

.. Petitioner /
Father of the detenu

Vs.

1. The Superintendent of Police,
Dindigul District.
- 2.The Inspector of Police,
Gujiliyamparai Police Station,
Dindigul District.
- 3.Yogalakshmi
- 4.Rasu
- 5.Parvathy

.. Respondents

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 detenu, namely, Rithish, son of M.Maharaja, aged 3 years, before this Court and handover the custody of the detenu to the



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petitioner.

For Petitioner : Mr.C.Muthu Saravanan

For Respondents 1 & 2 : Mr.RMS.Sethuraman
Additional Public Prosecutor

ORDER

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

The petition has been filed by the father of the detenu to direct the respondents 1 to 3 to produce the detenu, Rithish, son of M.Maharaja, aged 3 years, before this Court and hand over the custody of the detenu to the petitioner.

2. Today, when the Habeas Corpus Petition was taken up for hearing, the respondent police has produced the detenu child namely, Rithish, son of M.Maharaja, aged 3 years. The child was brought by his mother, the third respondent namely, Yogalakshmi. She stated before this Court that she had married one Saravanan, however, there had been strained relationship, thereafter she separated from him and started living with her parents.



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3. At that time, the intimacy between the petitioner and the third respondent seems to have been developed with a result it seems that there has been a cohabitation between them without even any marriage solemnized between them. This has been stated by the third respondent as well as the petitioner, who also present before this Court.

4. Out of the said intimacy, the petitioner and the third respondent gave birth to a male child, that is the detenu namely, Rithish.

5. Now the detenu child is with the third respondent who is none other the mother of the detenu, who being the natural guardian is carrying the child.

6. However, the petitioner claiming to be the biological father seeks custody of the child and only in that context, he filed this Habeas Corpus Petition making allegation that the detenu child is in illegal custody at the hands of the private respondent including the third respondent.



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7. However, since the child is with the third respondent who is none other than the mother, we cannot treat it as an illegal custody.

8. Insofar as the other allegations are concerned which are being made by each other, that is, the petitioner and the third respondent, it is not the forum to resolve of those plea and for custody of the child or for any other personal law remedy it is for the petitioner to approach the appropriate legal forum.

9. Therefore, by recording the afore-stated we are inclined to close this petition and accordingly, this Habeas Corpus Petition is closed.

[R.S.K.,J.] & [K.K.R.K.,J.]
06.06.2023

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

PJL



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1. The Superintendent of Police,
Dindigul District.
2. The Inspector of Police,
Gujiliyamparai Police Station,
Dindigul District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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and
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