



H.C.P.(MD) No.533 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 28.04.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

AND

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

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Barakkath Nisha

... Petitioner / Mother of the Detenue

Vs.

1.The Superintendent of Police,
Madurai Police, Madurai.

2.The Inspector of Police,
Jaihindipuram Police Station,
Madurai.

3.Muhamed Ansari

...Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, directing the respondents 1 and 2 to produce the body or person of the detenue, namely, Bushra, D/o.Ansari, aged about 17 years before this Court and handover the custody to the petitioner.

For Petitioner : Mr.W.Pamelin

For R1 & R2 : Mr.RMS.Sethuraman,
Additional Public Prosecutor



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ORDER

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

The petitioner, seeking production of her daughter, namely, Bushra, aged about 17 years, has filed this Habeas Corpus Petition.

2.The detenue is the daughter of the petitioner as well as the 3rd respondent. Today, when the matter is taken up for hearing, the learned Additional Public Prosecutor appearing for the respondents has produced the detenue before this Court. She has stated before us that she has completed 12th standard and from the childhood days she had been nurtured by the 3rd respondent ie., father of the detenue with the paternal grandmother and she claimed that she had never seen the petitioner ie., mother of the detenue as long back the father and mother of the detenue seems to have separated.

3.The detenue has also stated that she does not have any intention to see even the petitioner, as the petitioner never cares the well-being of the detenue from the childhood days, she has been taken care of only by the 3rd respondent / father and his mother, who is the paternal grandmother of the detenue.



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4.She has also submitted that when the detinue does not want to see even the petitioner, the petitioner seems to have made some attempts to see the detinue by coming to the school, where the detinue is studying and even that kind of attempt being made by the petitioner is not to be accepted by the detinue and in fact, she does not want the petitioner to make such attempt to see her even.

5.The said submission has been recorded. In view of the aforestated, since the detinue is with the 3rd respondent, who is none other than the father of the detinue, who is the natural guardian not only for the time being but for several years from the childhood days, the question of considering this Habeas Corpus Petition on the ground that the detinue is in illegal custody at the hands of either the 3rd respondent or anyone does not arise.

6.It is also to be noted that before the Family Court, Pathanamthitta, Kerala in I.A.No.1444 of 2014 in O.P.No.1021 of 2013 between the petitioner and the 3rd respondent, a compromise petition was



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filed by the petitioner as well as the 3rd respondent under which a compromise had been reached to the following terms “It is mutually agreed to keep the permanent custody of the children born in the marital relationship with the custody of the 1st respondent ie., the 3rd respondent herein and also agreed the visitation right to see the children in the end of every two months.”

7. When these are all the earlier happenings under which the permanent custody of the children, including the detenu was handed over to the 3rd respondent with compromise petition filed before the concerned Court, at this juncture, since she has come forward to file this Habeas Corpus Petition, it is not acceptable. Therefore, we are inclined to dismiss this Habeas Corpus Petition, accordingly, it is dismissed.

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

28.04.2023

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

MYR

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