



HCP(MD)No.855 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 20.07.2023

CORAM

THE HON'BLE MR JUSTICE M.S.RAMESH
AND
THE HON'BLE MR JUSTICE M.NIRMAL KUMAR

H.C.P.(MD)No.855 of 2023

Santhini Devi

.. Petitioner

Vs.

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

2.The Inspector of Police,
All Women Police Station,
Colachel,
Kanyakumari District.

3.Sahayaarulnijan

.. 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 petitioner daughter, Nijushafenal, aged about 3 years born on 27.08.2020, who is under the illegal custody of respondent No.3 and hand over her custody to the petitioner.



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For Petitioner : Ms.S.Veda Valli
For Respondents : Mr.RMS.Sethuraman,
Addl. Public Prosecutor
Mr.M.Arikaran for R3

ORDER

(Order of the Court was made by M.S.RAMESH,J.)

The petitioner is the mother of one baby Nijushafenal, aged about three years, who was born on 27.08.2020. The third respondent herein is her husband. Owing to certain domestic quarrels between the petitioner and the third respondent, she had left the matrimonial house. Thereafter, she had given a birth to a female baby viz., Nijushafenal on 27.08.2020. It is the case of the petitioner that the third respondent herein had come to her house and taken away her child, owing to which she had given a complaint to the second respondent police. In the meantime, the petitioner had given a statement to the second respondent police, owing to which the complaint itself was closed. However, since she intends to have the



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custody of her minor daughter, the present Habeas Corpus Petition has been filed.

2. On our directions, the second respondent herein had produced the petitioner's daughter along with the third respondent herein today. On looking into the facts of the case, we felt it is a fit case to be referred to the Mediation and accordingly, the parties were referred to the Mediation. Before the Mediation Centre, both the petitioner as well as the third respondent herein had come to an amicable arrangement by which, the third respondent had agreed to handover the custody of his daughter to the petitioner, on the understanding that the petitioner would procure a job in Thoothukudi and child will also be with her in Thoothukudi. The petitioner would have the entire custody of the child with her and when she goes to attend the duty, she would handover the child to her mother. The further understanding that the third respondent herein could visit the petitioner's child once in a week between 9.00 a.m. to 5.00 p.m. The settlement entered into between the parties on



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20.07.2023 before the Mediation Centre as well as statement of the petitioner and the third respondent herein read as follows:

1. Differences.

2. The parties hereto confirm and declare that they have voluntarily and of their own free will entered into this Settlement Agreement in the presence of the Mediator/Conciliator.

3. The following settlement has been arrived at between the Parties hereto:

a. The petitioner is willing and agrees to take the custody of minor child Mithusha Parvathi and she has given care and custody of the child to her mother Whanasa Devi for her own use.

b. The respondent is willing to visit his child at his mother's house at Chennai once in a week between 9 A.M to 5 P.M.

c. Both parties have given written statement in the above matter.

4. By signing this Agreement the Parties hereto state that they have no further claims or demands against each other with respect to HCP 855/23 (Case No) and all disputes and differences in this regard have been amicably settled by the Parties hereto through the process of conciliation.

[Signature]
Petitioner

[Stamp]
29 JUL 2023

[Signature]
N. J. S.
Respondent No. 3



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SETTLEMENT AGREEMENT

This SETTLEMENT AGREEMENT entered into on 20/7/2023 between

Senthilani Devi Petitioner

and

Sahaya Anil Rajan Respondent no 3

WHEREAS

1. Disputes and differences had arisen between the Parties hereto and HCP 855/23 was filed on 5/7/23 before Madurai Bench Madurai Bench.
2. The matter was referred to mediation / conciliation vide an order dated 20/7/23 passed by Hon'ble Mr Justice M.S. Ramesh and Hon'ble Mr Justice M. Nirmalkumar.
3. The parties agreed that MR. C. RAMESH would act as their Mediator/ Conciliator.
4. Several meetings were held during the process of Mediation / Conciliation from 20/7/23 to — and the parties have with the assistance of the Mediator / Conciliator voluntarily arrived at an amicable solution resolving the above mentioned disputes and

Senthilani
Petitioner

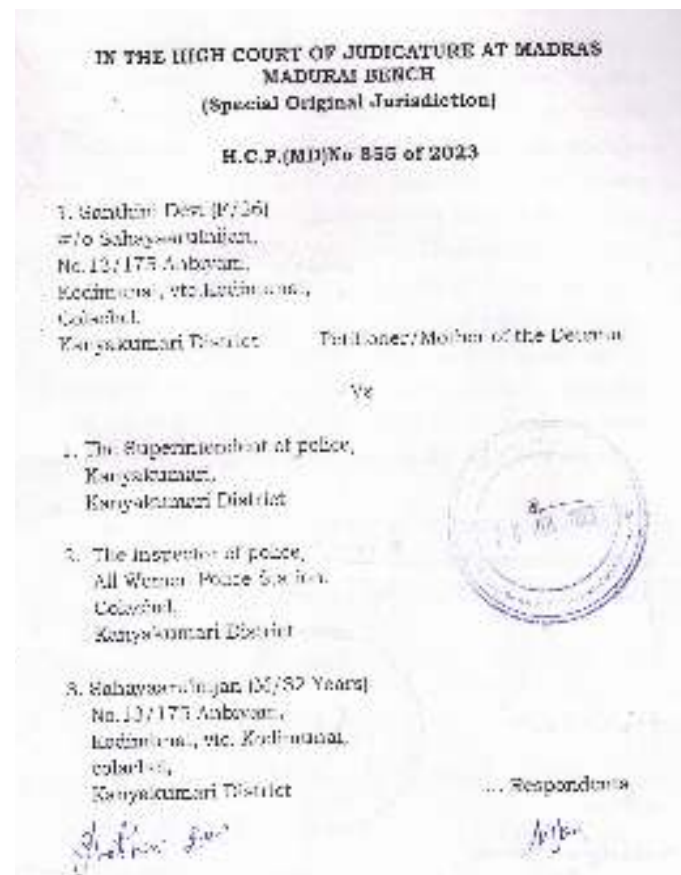
Anil
Respondent no 3



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MEDIATION REPORT

In the above matter, as per the order of this Hon'ble Court both parties and their child Nijushafenal and their counsel are present today before Mediation centre. Mediation was conducted between the parties and an amicable settlement was arrived between petitioner and Respondent No.3 that the petitioner will reside at Thoothukudi and took the custody of the child and petitioner is also undertake that the child will be under the custody of her mother ^{at Thaan} when she was gone for work and she also allow respondent No.3 to visit the child whenever, he will return from sea work. The respondent also agreed for the same and also has requested to see the child once in a week between 9.am to 5 p.m Both petitioner and respondent No.3 have also given the statement in a writing.

As per the orders of this Hon'ble Court I mediated both parties and settlement and ^{the above} ~~to at me~~ settlement was arrived between the parties

Date: 20.07.2023

Place: Madurai

Shethin Desi

[Signature]
counsel for petitioner



[Signature]
Mediator

Nijan

[Signature]
Counsel for Respondent



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3. In view of the amicable settlement arrived at between the parties, no further orders are required in the present Habeas Corpus Petition. Both parties herein shall strictly adhere to the terms of the agreement arrived between them before the Mediation Centre as extracted above. This apart, we also deem it fit to give liberty to the third respondent herein to have visitation rights of the child during the holiday periods also.

4. At this juncture, the learned counsel for the petitioner submitted that since the petitioner is presently working at Chennai, she requires some time to shift her residence from Chennai to Thoothukudi. We are of the view that 15 days time would be appropriate for such shifting and it would be open to the petitioner to handover the temporary custody of the child to her mother during such period.



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5. With these observations and findings, this Habeas Corpus

Petition stands closed.

(M.S.R.,J.) (M.N.K.,J.)
20.07.2023

NCC : Yes / No

Index : Yes / No

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M.S.RAMESH,J.
and
M.NIRMAL KUMAR,J.

vsm

To

- 1.The Superintendent of Police,
Kanyakumari District,
Kanyakumari.
- 2.The Inspector of Police,
All Women Police Station,
Colachel,
Kanyakumari District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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