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H.C.P.No.307 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.06.2024

CORAM :

THE HONOURABLE MR. JUSTICE M.S. RAMESH
AND
THE HONOURABLE MR. JUSTICE SUNDER MOHAN

H.C.P.No.307 of 2024

Ramprasath

... Petitioner

Vs.

1.The Commissioner of Police
Tambaram, Chennai

2.State Rep. by
The Inspector of Police
Kottucherry Police Station
Kottucherry
Karaikal 609 609

3.N.Nalini

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, directing the 1st and 2nd respondents to produce the petitioner's minor child namely Siva Senthuran, aged about 5 1/2 years, before this Court from the custody of the 3rd respondent and handover the child to the petitioner.

For Petitioner : Mrs.K.Lakshmi Priya



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For Respondents

: R1 - given up

Mr.K.S.Mohandass

Addl. Public Prosecutor (Pondy) - R2

Mr.S.P.Vijayaragavan - R3

ORDER

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

The above Writ of Habeas Corpus has been filed seeking for a direction, directing the 1st and 2nd respondents to produce the petitioner's minor child namely Siva Senthuran, aged about 5 1/2 years, before this Court from the custody of the 3rd respondent and handover the child to the petitioner.

2.Owing to certain matrimonial disputes between the petitioner and the 3rd respondent, who is his wife, both of them are in an estranged relationship. The minor son, born to the petitioner through the 3rd respondent herein, is in the ordinary custody of the 3rd respondent at Karaikkal, and that he is pursuing his education.

3.In the present Habeas Corpus Petition, the father / petitioner seeks



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for the custody of the child. In the affidavit filed in support of the present Habeas Corpus Petition, it is stated that the petitioner's child is in illegal custody of his mother. In order to amicably resolve the grievance of the petitioner with regard to his separation from the child, we had passed the interim order dated 25.03.2024, wherein, certain arrangements were made facilitating the petitioner to visit his child, in the following manner:

"To the arrangement of visitation rights made in an earlier order dated 01.03.2024, the petitioner expresses certain inconvenience since the child also has to attend school on Saturdays. When it was suggested to both the petitioner and the respondents that the visitation arrangement could be modified by permitting the petitioner to visit his child on Sundays between 10.00 a.m., to 04.00 p.m., both parties agreed for this interim arrangement.

2.Learned counsel for the petitioner also submitted that there were some disturbances from the parents of the third respondent herein / grandparents of the minor child, during the visits.

3.In the light of the above observations, the earlier order dated 01.03.2024, granting liberty to the petitioner to visit his minor son at the third respondent residence, is



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modified as follows:

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(i) The petitioner is at liberty to visit his minor son at the third respondent's residence from 10.00 a.m., to 04.00 p.m., on every Sunday commencing from 31.03.2024 until further orders;

(ii) During such visits, the petitioner is at liberty to take the child out of the house. However, it shall be ensured that the child is returned back to the third respondent at or before 04.00 p.m., of the same day;

(iii) Neither the third respondent nor her parents / grandparents of the minor child shall cause any disturbance or obstruction to the petitioner's right to visit his minor child as stated above.

4.It is now represented by both the learned counsels that the arrangement that was arrived at as above, is being strictly adhered to. It is also brought to the notice of this Court that both the parties have approached the concerned Family Courts, touching upon their matrimonial dispute with regard to restitution of conjugal rights as well as for divorce, and the same are pending.



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5. On a careful perusal of the above facts, as narrated before this Court and the consequential arrangements this Court has made through the above interim order, this Court is of the view that the custody of the minor child with the 3rd respondent herein is not illegal. However, if the petitioner still claims that he would be entitled for a permanent custody, it would be appropriate for this Court to grant liberty to the petitioner to deal with the same in accordance with law.

6. This Habeas Corpus Petition stands closed accordingly, granting liberty to both the petitioner as well as the 3rd respondent to approach the concerned Courts of law, for redressal of their grievances with regard to the custody of the child. Till such finality is arrived at through orders passed by the concerned Courts, the arrangements made through the interim order of this Court dated 25.03.2024 shall continue. No costs.

[M.S.R., J] [S.M., J]
10.06.2024

kas

Index : Yes / No
Neutral Citation



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M.S.RAMESH, J.
and
SUNDER MOHAN, J.

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To

1.The Commissioner of Police
Tambaram
Chennai

2.The Inspector of Police
Kottucherry Police Station
Kottucherry
Karaikal 609 609

3.The Public Prosecutor
High Court of Madras
Chennai 600 104

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