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H.C.P.No.375 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.04.2024

CORAM :

THE HONOURABLE MR. JUSTICE M.S.RAMESH

AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

H.C.P.No.375 of 2024

P.Shabeer Mohamed

...Petitioner

Vs.

1.The Superintendent of Police,
Manjakkuppam, Cuddalore,
Cuddalore District,
Tamil Nadu – 607 001.

2.The Inspector of Police
Killai Police Station,
Chidambaram,
Killai – 608 102.

3.Arafath Nisha

...Respondents



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Prayer: Habeas Corpus Petition filed under Article 226 of the Constitution of India praying for the issuance of Writ of Habeas Corpus, directing the 2nd respondent to produce the detenue Minor S.Ajmal aged about 1 year from the illegal custody of the third respondent before this Court and hand over the custody of the minor son S.Ajmal to the petitioner.

For Petitioner : Mr.I.Abdul Basith

For Respondents : Mr.E.Raj Thilak
Additional Public Prosecutor
Assisted by Mr.C.Aravind
for R1 and R2

Mr.C.S.S.Pillai
for Ms.N.Nasreen Fathima for R3

ORDER

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

Alleging that the petitioner's 1 ½ years old minor son is in the custody of the third respondent herein, who is the sister of the petitioner's deceased wife, the present Habeas Corpus Petition has been filed.

2. The petitioner is ordinarily residing at Kuwait, wherein he is employed. When this aspect was pointed out to the petitioner, he submitted



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that the custody of the child can be handed over to the child's grandmother, who is residing in Chidambaram, Tamil Nadu.

3. We had called upon the parties to appear before us, including the grandmother of the child. The learned counsel for the petitioner would submit that the grandmother of the child is seventy years old and of ill health and therefore, she is not able to come to Court in person. On the other hand, the contention of the third respondent herein, who is also physically present before this Court, is that she is not only taking care of the petitioner's minor son but also the petitioner's deceased wife's daughter, who was born through her earlier marriage and had turned a widow when she married the petitioner.

4. We have taken note of the fact that the petitioner is not going to be in India to have the care and custody of his minor son but rather is going to hand over custody of the child to his 70 year old mother, who is also not keeping well.



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5. It is also brought to our notice that the petitioner herein had remarried, and his child would also be exposed to his newly married wife, who did not have the benefit of being with the child of such tender age all these days. Hence, we are of the firm view that the parties could be directed to approach the concerned Courts of law to work out their remedies touching upon the custody of guardianship of the minor child.

6. In view of the above, the Habeas Corpus Petition stands closed. However, the petitioner or his mother are at liberty to visit the minor child at the residence of the third respondent herein whenever they wish to see the child, and during such visits, the third respondent herein shall permit for an amicable visitation.

[M.S.R.,J.] [S.M.,J.]
26.04.2024

Index : Yes / No
Neutral Citation : Yes / No
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- 3.The Public Prosecutor,
High Court, Madras.



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