



HCP.No.1055/2024

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 09.05.2024

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

AND

THE HONOURABLE MRS. JUSTICE R.KALAIMATHI

HCP.No.1055 of 2024

Shakila Banu

.. Petitioner

Versus

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

2. The Inspector of Police,
Vellore North Police Station.
Vellore North, Vellore District.

3. Ismail

4. Hyder Ali

..Respondents

Prayer:- Habeas Corpus Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of habeas corpus directing the respondents 1 and 2 respondents to produce the petitioner's minor children 1. Ahamed Anas (6 years old) and 2. Ahamed Owais (3 years old) from the custody of 4th respondent before this court and hand over the custody of the children to the 3rd respondent.



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For Petitioner : Mr.S.Sridevi
For Respondents : Mr.A.Gokulakrishnan
Additional Public Prosecutor

ORDER

[Order of the Court was made by A.D.JAGADISH CHANDIRA, J.,]

- (1)Mr.A.Gokulakrishnan, learned Additional Public Prosecutor accepts notice on behalf of respondents 1 and 2.
- (2)The present petition is filed by the petitioner/mother of the detenus, namely, Ahamed Anas (6 years old) and Ahamed Owais (3 years old), to cause production of her children who are said to be in the custody of the 4th respondent and to hand over their custody to the 3rd respondent herein.
- (3)The case of the petitioner is that she married the 4th respondent and out of wedlock, two children were born. It is her further case that due to matrimonial discard, she had eloped with one Kalanthar along with her children. Thereafter, her father / 3rd respondent herein had filed HCP.No.2307/2023. This Court had referred the matter to mediation and in the mediation, the petitioner had agreed to hand over the custody



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of her children to her father, for which proposal, the 4th respondent had no objection. Thereafter, the said Habeas Corpus Petition was closed recording the settlement. It is further case that she came to know that the 4th respondent took away the children forcibly from the custody of the 3rd respondent. Apprehending that the custody of the children will not be safe at the hands of the 4th respondent, the petitioner came forward with the present petition.

(4) Heard the learned counsel for the petitioner.

(5) The learned Additional Public Prosecutor would submit that in the earlier round of litigation, the petitioner herself had voluntarily handed over the custody of her children to the 3rd respondent / father of the petitioner and that, now the children are in the custody of their father. In the said circumstances, it cannot be said that the minor detenus are in the illegal custody and the present petition is not maintainable. He prayed for dismissal of this petition.

(6) Even according to the petitioner, the children / minor detenus are in the custody of their father/4th respondent herein who is a natural guardian. Hence, their custody cannot be said to be illegal.



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(7)Hence, this petition is not maintainable. Accordingly, the Habeas Corpus Petition is **closed giving liberty to the petitioner to approach the appropriate Forum for appropriate relief.**

[ADJCJ] [RKMJ]

09.05.2024

AP

Internet : Yes

To

1. The Superintendent of Police,
Vellore District, Vellore.
2. The Inspector of Police,
Vellore North Police Station.
Vellore North, Vellore District.
- 3.The Public Prosecutor
High Court , Madras.



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A.D.JAGADISH CHANDIRA, J.,
and
R.KALAIMATHI, J.,

AP

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