



WEB COPY



HCP.No.1613 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.07.2024

CORAM :

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

H.C.P.No.1613 of 2024

Shaina

... Petitioner

Vs.

1.The Superintendent of Police,
Superintendent of Police Office,
Thiruvarur.

2.The Inspector of Police,
All Women Police Station,
Thiruvarur,
Thiruvarur District.

3.Liyakath Ali

4.Mohamed Riyafath

... 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 bodies of the petitioner's minor daughters 1.Alfidha Mariam, aged 6 years and 2.Aljafira Mariam, aged 3 years & 8 months, before this Court and handover to the petitioner.



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For Petitioner : Mr.Ravindran,
Senior Counsel
for Ms.V.Mythili

For R1 & R2 : Mr.A.Gokulakrishnan,
Additional Public Prosecutor

For R3 : Mr.O.S.Thilak Pasumbadiyar

ORDER

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

The petitioner herein, claims that her marriage with Mohamed Riyafath/fourth respondent herein, has been annulled as per Muslim Rights and Customs and that there was a mutual arrangement for the custody of the minor daughters, aged about 6 years and 3 years respectively, to be retained by the petitioner, which was reduced to writing through an agreement dated 01.02.2024. Pursuant to this arrangement, the two minor daughters were under the care and protection of the petitioner herein. Incidentally, the petitioner's ex-husband is ordinarily residing in U.A.E.

2. In the present Habeas Corpus Petition, it is alleged that the third respondent/father in law of the petitioner has forcibly retained the custody of



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her two minor daughters. Pending the Habeas Corpus Petition, we had directed the third respondent herein, to produce the two minor children before us.

3. Today, when the matter was called, we had taken into consideration the agreement between the petitioner and her ex-husband with regard to the custody of the minor children and also in consideration of the tender age of the two minor girls, we felt it appropriate that the present custody of the two minor girls be retained with the petitioner/mother.

4. Accordingly, when the petitioner was called in the morning hours, we had directed the third respondent to handover the custody of the minor girls to the mother and had passed over the case. At the end of the list of hearing, we had again called the mother and we found that both the children were comfortable in the care and protection of their mother/petitioner. In this background, it would be appropriate that the minor girls' care and custody be retained with the petitioner/mother.



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5. Hence, the petitioner is granted liberty to retain the custody of her two minor daughters namely Alfidha Mariam and Aljafira Mariam with her. However, the third respondent and his wife are at liberty to visit their grand-daughters at the residence of the petitioner, as and when they require, after giving prior intimation to the petitioner about their visit.

6. With the above observations and directions, this Habeas Corpus Petition stands ordered accordingly. No costs.

[M.S.R., J]

[S.M., J]

31.07.2024

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

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To

1.The Superintendent of Police,
Superintendent of Police Office,
Thiruvarur.

2.The Inspector of Police,
All Women Police Station,
Thiruvarur,
Thiruvarur District.

3.The Public Prosecutor,
High Court, Madras.



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and
SUNDER MOHAN, J.

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