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H.C.P.No.1504 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.08.2024

CORAM :

**THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE MR. JUSTICE V.SIVAGNANAM**

H.C.P.No.1504 of 2024

K.Harusha

.. Petitioner
Versus

1. The Superintendent of Police,
District Police Office,
Krishnagiri - 635 115,
Krishnagiri District.

2. The Inspector of Police,
Berigai Police Station,
Crime No.88 of 2024,
Krishnagiri District.

3. T.A.Arunkumar

.. Respondents

Prayer : Habeas Corpus Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Habeas Corpus, directing the respondents 1 and 2 herein to secure the body of the petitioner's minor son, Lihan Reddy, aged 2 years, from the illegal custody of the 3rd respondent and produce him before this Court for entrusting to the lawful custody of his mother/petitioner herein.



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For Petitioner : Mr.N.Manoharan

For Respondents : Mr.E.Raj Thilak,
Additional Public Prosecutor,
for RR-1 and 2

: Mr.Soundara Vijay, for R3

ORDER

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

The Writ of Habeas Corpus has been instituted to direct the respondent Nos.1 and 2 to secure the body of the petitioner's minor son, Lihan Reddy, aged about two years from the custody of the third respondent.

2. The petitioner states that she is a resident of Penaganda village, Kolar district, Karnataka state. She completed B.Com., course. She married the third respondent who is running Sri Dhattatreya Agro Service at Doddy village, Beriga post. The petitioner and the third respondent loved each other and their marriage was solemnized. From and out of wedlock, the minor son namely, Lihan Reddy, born and now aged about two years. On account of the matrimonial dispute between the petitioner and the third respondent, they are living separately. The petitioner is now residing along



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with her parents. The petitioner states that her two year old son had forcibly taken by the third respondent with the assistance of their relatives and friends on 29.04.2024. Since the minor two year old baby was forcibly taken away by the third respondent, the present petition came to be instituted.

3. Mr.N.Manoharan, learned Counsel for the petitioner would submit that the boy is aged about two years and all along the child was with the mother right from the date of birth. The boy was taken out from the custody of the petitioner/mother on 29.04.2024 and a complaint was lodged before the second respondent on 30.04.2024. Since no action was taken to secure the custody of the minor child, the present Habeas Corpus Petition has been instituted.

4. We have examined the parties. The third respondent is raising several allegations against the petitioner/mother of the child. The father and mother of the third respondent, who are present before this Court, also raises several allegations suspecting the character of the petitioner. We do not find any merit in such allegations. The petitioner, though willing to join the



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matrimonial home, the parents of the third respondent are not willing to take her back to their home. Under these circumstances, we do not find that there is possibility of settling the issues between the parties at present and it is for them to resolve the issues by approaching competent Court of law.

5. Regarding the present petition for Habeas Corpus, we find that the child is aged about two years. The child requires the care of mother till the age of five years. The law mandates that child below five years must be with the custody of mother. It may not be possible for the third respondent to take care of the two year old child and he has to depend on other persons. Considering the fact that the minor child is aged about two years, we are inclined to consider the present Habeas Corpus Petition. Accordingly, the third respondent is directed to hand over the minor child, Lihan Reddy, to the petitioner immediately forthwith and the petitioner is directed to take care of the child. All the matrimonial related disputes can be resolved through the competent Court of law.

6. This Habeas Corpus Petition stands disposed of.



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Index : yes
Speaking order
Neutral Citation : yes/no
grs

[S.M.S., J]
22.08.2024

[V.S.G., J]

To

1. The Superintendent of Police,
District Police Office,
Krishnagiri - 635 115,
Krishnagiri District.
2. The Inspector of Police,
Berigai Police Station,
Krishnagiri District.
3. The Public Prosecutor,
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**S.M.SUBRAMANIAM, J.
AND
V.SIVAGNANAM, J.**

grs

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