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HCP.No.1704 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.08.2024

CORAM :

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

H.C.P.No.1704 of 2024

Thirunavukkarasu

... Petitioner

Vs.

1.The State represented by its
The Superintendent of Police,
Cuddalore District.

2.The State represented by
The Inspector of Police,
Bhuvanagiri Police Station,
Cuddalore District.

3.Sowrirajan

... 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 body of the detainee petitioner's wife Sivaranjini W/o.Thirunavukkarasu, aged about 26 years and petitioner's daughter Rathisha, D/o.Thirunavukkarasu, aged about 4 years before this Court and set their at liberty forthwith.



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For Petitioner : Mr.D.Dayalan

For R1 & R2 : Mr.E.Raj Thilak,
Additional Public Prosecutor

ORDER

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

The Writ of Habeas Corpus petition has been instituted to direct the respondents 1 and 2 to produce the body of the detenue petitioner's wife Sivaranjini W/o.Thirunavukkarasu, aged about 26 years and petitioner's daughter Rathisha, D/o.Thirunavukkarasu, aged about 4 years before this Court.

2.The power of judicial review of the High Court under Article 226 of the Constitution of India cannot be expanded for the purpose of dealing with matrimonial disputes or disputes relating to custody of minor child. Such issues ought to be resolved before the competent Court of law in the manner contemplated.

3.The petitioner states that he married one Sivaranjini and from and out of wedlock, one female child born. The child is now aged about 4 years and



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admittedly, with the custody of her mother.

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4.The learned counsel for the petitioner would submit that petitioner's wife Sivaranjini is under the illegal custody of the 3rd respondent. In other words, the 3rd respondent detained the wife of the petitioner.

5.The learned Additional Public Prosecutor, on instructions from the respondent police would submit that, the wife of the petitioner is not detained illegally by the 3rd respondent and she has voluntarily accompanied the 3rd respondent and living with him.

6.Allowing a minor to accompany with a person cannot be construed as a illegal detention. It is the liberty of an individual to accompany a person and that being the situation in the present case, the Habeas Corpus Petition is not entertainable. The wife of the petitioner is voluntarily residing with the 3rd respondent. Therefore, it is left open to the petitioner to seek appropriate remedy before the competent forum, in the manner contemplated. However, the wife of the petitioner and the child is not under illegal detention, warranting any further consideration.



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WEB COPY 7. Accordingly, this Habeas Corpus Petition stands dismissed.

[S.M.S., J.]

[V.S.G., J.]

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Index : Yes/No
Speaking Order : Yes/No
Neutral Citation : Yes/No

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To

1. The State represented by its
The Superintendent of Police,
Cuddalore District.
2. The Inspector of Police,
Bhuvanagiri Police Station,
Cuddalore District.



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S.M.SUBRAMANIAM, J.
AND
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