



H.C.P.No.2576 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.10.2024

CORAM :

THE HON'BLE MR. JUSTICE S.M.SUBRAMANIAM
AND
THE HON'BLE MR.JUSTICE V.SIVAGNANAM

H.C.P.No.2576 of 2024

Rekha
W/o Jayaprakash .. Petitioner

v.

1. The State rep by
The Superintendent of Police
Ranipet District, Ranipet

2. The State rep by
The Inspector of Police
All Women Police Station
Arakkonam Taluk
Ranipet District

3. Jayaprakash
S/o Jayaseelan

4. Endrison
S/o Jayaseelan .. Respondents

Petition filed under Article 226 of the Constitution of India, praying



H.C.P.No.2576 of 2024

for issuance of a Writ of Habeas Corpus, directing the respondents 1 to 3 to produce the body or person of petitioner's minor son namely Kaushik Rao, S/o J.Jayaprakash, aged 4 years, before this Hon'ble Court and handover to the petitioner.

For Petitioner :: Mr.P.Krishnan

For Respondents :: Mr.E.Raj Thilak
Additional Public Prosecutor
for R1 & R2
R3-Mr.J.Jayaprakash/Party in Person
R4-Not ready in notice

ORDER

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

This writ of habeas corpus has been instituted to direct the respondents 1 to 3 to produce the minor son of the petitioner, namely, Kaushik Rao, S/o J.Jayaprakash, aged 4 years.

2. The second respondent/Inspector of Police, All Women Police Station produced the minor boy along with the third respondent, who is the father. The petitioner is also present.



H.C.P.No.2576 of 2024

3. We have examined the petitioner and the third respondent.

Admittedly, the petitioner was not staying in India for more than one year.

The boy was with the father during the said period and the minor boy, aged about 4 years, is more attached with the father and he is unable to recognise the mother in view of her absence for more than one year.

4. Normally a child below 5 years must be with the custody of mother.

Though under Section 6(a) of the Hindu Minority and Guardianship Act, 1956, the legal custody must be normally with the mother till the child attains the age of 5 years, in the present case, the mother was absent for more than one year and she was working with the Saudi Arabia Government. The petitioner informed before this Court that she will go back to Saudi Arabia after expiry of the leave period. Since the boy is more attached with the father/third respondent and not willing to join with the mother, we are inclined to form an opinion that the minor boy is not under illegal detention. If matrimonial dispute exists between the petitioner and the third respondent, they are at liberty to workout their remedy before the competent Court of law in the manner contemplated. With this observation,



H.C.P.No.2576 of 2024

the habeas corpus petition stands disposed of.

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Index : yes

(S.M.S.,J.)

(V.S.G.,J.)

Neutral citation : yes/no

17.10.2024

SS

To

1. The Superintendent of Police
Ranipet District, Ranipet
2. The Inspector of Police
All Women Police Station
Arakkonam Taluk
Ranipet District
3. The Public Prosecutor
High Court, Madras



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H.C.P.No.2576 of 2024

S.M.SUBRAMANIAM,J.

AND

V.SIVAGNANAM,J.

SS

H.C.P.No.2576 of 2024

17.10.2024