



WEB COPY



H.C.P.No.3018 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.12.2024

CORAM:

**THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE MR. JUSTICE M.JOTHIRAMAN**

H.C.P.No.3018 of 2024

Jothi Lakshmi

... Petitioner

Vs.

1.The Assistant Commissioner of Police,
Ennore Range, Ennore,
Chennai – 600 057.

2.The Inspector of Police,
Ennore All Women Police Station,
Chennai – 600 057.

3.Chandhiran

... Respondents

PRAYER: Habeas Corpus Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Habeas Corpus, directing the 1st and 2nd respondents herein to secure, produce the petitioner's minor son Krithesh, S/o.Chandhiran, aged about 6 years, before this Court from the illegal custody of the 3rd respondent and set him at liberty forthwith.

For Petitioner : Mr.M.Vinoth



WEB COPY



H.C.P.No.3018 of 2024

For R1 & R2 : Mr.R.Muniyapparaj,
Additional Public Prosecutor

ORDER

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

A Writ of Habeas Corpus has been instituted to secure and produce the petitioner's minor son Krithesh, aged about 6 years.

2. The marriage between the petitioner and the third respondent was solemnized on 08.06.2017 at Ponneri. Out of the wedlock, two children were born i.e. one son namely Krithesh was born on 07.08.2018 and the daughter namely Kirthika was born on 25.08.2020. On account of certain misunderstandings, the petitioner and the third respondent started living separately and thereafter, they got remarried. As far as the third respondent is concerned, he is blessed with another child with his second wife. However, the petitioner states that she has undergone surgery for family planning and she has to take care of her two children. The petitioner further stated that her second husband was informed about these



H.C.P.No.3018 of 2024

facts and he also agreed to take care of her two children.

WEB COPY

3. Today when the matter was called, the petitioner, the third respondent, the detenu/son, as well as the minor daughter were present before this Court. We have examined the detenu boy Krithesh, aged about 6 years and he is affectionate with his sister, aged about 4 years. The girl baby is also equally affectionate with her elder brother and even inside the Court hall, the children were happy with each other. Therefore, we are of the affirmed opinion that the children need not be separated.

4. Pertinently, the third respondent is not taking care of his son/detenu and he has allowed his sister to take care of his son. The third respondent's sister is not residing nearby his house but she resides in Andhra Pradesh. When the third respondent himself is not taking care of his own son and allowed his sister to take care of him, this Court has to consider the best interest of the boy. The petitioner has no other issues with her second husband as she had undergone surgery for family planning. Further, the girl child is very affectionate with her elder brother and the detenu also joined with her sister and they both started playing



H.C.P.No.3018 of 2024

inside the Court hall.

WEB COPY

5. Taking note of the interest of the children and considering the fact that the third respondent/father has allowed his sister to take care of his own son/detenu, we are of the opinion that the petitioner/mother will be the best person to take custody of her son/detenu and therefore, we are inclined to consider the present petition.

6. Accordingly, the petitioner/mother is allowed to take custody of her son/detenu namely Krithesh, aged about 6 years along with her daughter namely Kirthika, aged about 4 years. The third respondent may seek visitation permission from the petitioner for the purpose of visiting the children. In the event of any such request by the third respondent, the petitioner may consider the same. However, the third respondent shall not make any attempts to forcibly take away the children from the custody of the petitioner/mother and in the event of such incident, the petitioner is permitted to approach the Police Authorities, who in turn shall initiate appropriate action to protect the custody of the children with the petitioner/mother.



H.C.P.No.3018 of 2024

WEB COPY

7. With the above directions, this Habeas Corpus Petition stands disposed of. No costs.

(S.M.S, J.)

(M.J.R, J.)

06.12.2024

Index: Yes

Speaking order

Neutral Citation: Yes/No

Sni

1.The Assistant Commissioner of Police,
Ennore Range, Ennore,
Chennai – 600 057.

2.The Inspector of Police,
Ennore All Women Police Station,
Chennai – 600 057.

3.The Public Prosecutor,
High Court of Madras,
Chennai.



H.C.P.No.3018 of 2024

S.M.SUBRAMANIAM, J.
and
M.JOTHIRAMAN, J.

Sni

H.C.P.No.3018 of 2024

06.12.2024