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H.C.P.No.2455 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.03.2024

CORAM :

THE HONOURABLE MR. JUSTICE M.S.RAMESH

AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

H.C.P.No.2455 of 2023

Sendhurvalli

... Petitioner

Vs.

1. The Commissioner of Police,
No.132, EVK Sampath Road,
Vepery, Chennai 600 007.

2. State represented by its,
The Inspector of Police,
P2 Otteri Police Station,
Chennai 600 012.

3. Issac Sam Dinakaran

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Habeas Corpus, directing the 1st and 2nd respondent to produce petitioner's minor daughter/detenué namely I.Livia Abigail, female aged 8 years, D/o. Issac Sam Dinakaran before this Hon'ble Court and handed over her custody to the petitioner and let her minor daughter set at liberty.

For Petitioner

: Ms.M.Abinu Monisha

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For Respondents : Mr.E.Raj Thilak
Additional Public Prosecutor
assisted by Mr.C.Aravind

ORDER

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

Complaining that the 3rd respondent herein/husband had illegally abducted the petitioner's minor daughter,viz., I.Livia Abigail, aged 8 years, a complaint has been made before the 2nd respondent police in CSR No.295 of 2023 and in this back ground, the present Habeas Corpus Petitioner has been filed.

2. Both the petitioner as well as the 3rd respondent have been making allegations against each other with regard to matrimonial disputes between themselves. When we were apprised of the fact that, owing to this dispute, the education of the child was affected, various interim orders were passed. We also subjected the parties to a mediation, apart from ensuring that the child continues her school education at CSI Ewarts Matriculation Higher Secondary School, Purasalwakkam, Chennai. We also granted liberty to the petitioner/wife to visit the child after school hours between 3 p.m. and 4p.m. In continuation to this Interim Order, the child is now continuing her

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education at CSI Ewerts Matriculation Higher Secondary School, Purasalwakkam, Chennai, and the mother has also been visiting the child after school hours.

3. In the meantime, the third respondent/husband has preferred a divorce petition in I.D. No.4911 of 2023 before the IV Additional Family Court, Chennai, as well as a guardian petition in G.W.O.P. No.5040 of 2023 before the III Additional Family Court, Chennai, which were ordered to be tried together by the III Additional Judge, Family Court, Chennai, vide orders dated 03.01.2024, and the same are pending. In spite of the opportunities being extended to the parties to work out an amicable settlement, the same was in vain. Now that the parties have also approached the Family Court with regard to the dissolution of marriage, as well as the guardianship of their minor child, we are of the view that the parties can be granted liberty to work out their remedy before the concerned court.

4. Since we have also intervened through interim orders with regard to the petitioner's visit of the child, to which, both the parties have expressed certain inconvenience for arrangement, it would be appropriate if the



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petitioner is granted liberty to have the interim custody of the child on every Saturday from 10 a.m. to 5p.m till any interim or final orders are passed by the concerned family court with regard to the visitation rights. We hasten to add here that, without reference to the present arrangement, the Family Court would be at liberty to pass such orders, modifying the visitation conditions, in case any of the parties express their inconvenience with the present arrangement.

5. With the above observations, the III Additional Family Court, Chennai, is called upon to expedite the proceedings in G.W.O.P. No.5040 of 2023 and pass final orders as expeditiously as possible. Accordingly, this Habeas Corpus Petition stands closed.

[M.S.R., J] [S.M., J]
11.03.2024

bga
Internet : Yes
Index : Yes / No
Neutral Citation : Yes / No



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To

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