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H.C.P.No.2514 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.04.2024

CORAM :

THE HONOURABLE MR. JUSTICE M.S. RAMESH
AND
THE HONOURABLE MR. JUSTICE SUNDER MOHAN

H.C.P.No.2514 of 2023

R.Pavithra
W/o.R.Ravikumar

... Petitioner

Vs.

1. The Sub-Inspector of Police
All Woman Police Station
Perur,
Coimbatore District - 641 010.

2. R.Ravikumar

... Respondents

PRAYER:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, directing the 1st respondent to secure the minor son namely, R.Krishiv, aged about 1 1/2 years from the illegal custody of the 2nd respondent and to produce the body of the minor son before this Court and handover the custody of the said minor child to the petitioner.



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For Petitioner : Mr.Akshai Sajin Kumar V.L.
For Respondents : Mr.E.Raj Thilak,
Additional Public Prosecutor
Assisted by Mr.C. Aravind

ORDER

[Order of this Court was made by M.S.RAMESH,J]

The grievance of the petitioner is that the second respondent herein, who is the husband, had taken custody of her 1 ½ years child from 04.05.2022 and is not permitting the petitioner to visit her son. The petitioner had also given a complaint before the jurisdictional police which was registered in FIR No.30 of 2023 dated 02.12.2023. In this backdrop, she has preferred the present petition alleging that her son is in illegal custody of second respondent herein and sought for securing her son and handing over custody to her.

2. During the pendency of habeas corpus petition, we had subjected the parties to Mediation at the Mediation and Conciliation Centre, Coimbatore District, which failed. On 12.01.2024 and 08.03.2024, an



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interim order came to be passed by taking note of fact that the child was 1½ years old and thereby ordered for interim custody of the child to the petitioner / mother. In the same order, the second respondent / father was also granted liberty to visit his child at the house of the petitioner on the Sunday of every week between 10.00 a.m. and 1.00 p.m., after giving prior intimation about his visit to the petitioner, at least before 24 hours.

3. It is now reported that the aforesaid arrangement continued for about two weeks and thereafter, it is alleged by both parties that either the second respondent had not come to visit the child or that the petitioner herein had refused to permit the second respondent to visit the child. We are of the view that these disputed facts cannot be adjudicated by this Court in exercise of powers under Article 226 of the Constitution of India. Nonetheless, if at all the second respondent is of the view that the petitioner is preventing the second respondent to see his child, it is always open to him to file a petition for disobedience of the orders before this Court.



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4. However, since the custody of the child has already been handed over to the petitioner, the grievance of petitioner stands redressed. We are also of the view that the interim arrangement by which the second respondent herein was granted liberty to visit his child should continue. If the second respondent and petitioner are still aggrieved with regard to any future claim, it is open to the parties to work out their remedies in accordance with law.

5. Thus, we are inclined to close the present petition with liberty to second respondent to visit the child, whilst in the custody of petitioner / mother, on Sunday of every week between 10.00 a.m. and 1.00 p.m. at the house of the petitioner herein, after giving prior intimation about his visit to petitioner, at least before 24 hours.

With the above liberty, this Habeas Corpus Petition stands closed.

[M.S.R., J] [S.M., J]
22.04.2024

Speaking / Non-speaking order
Neutral Citation : Yes / No

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To

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Perur,
Coimbatore District - 641 010.
2. The Public Prosecutor
High Court of Madras
Chennai 600 104.



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