



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :20.02.2024

CORAM:

**THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN
and
THE HONOURABLE MR.JUSTICE C.KUMARAPPAN**

H.C.P.(MD) No.20 of 2024

S.Vennila

... Petitioner/mother of the detenue

-vs-

1.The Superintendent of Police,
Pudukkottai,
Pudukkottai District.

2.The Inspector of Police,
Thirumayam Police Station,
Pudukkottai District.

3.Sathasivam

4.Senthilkumar ... Respondents

PRAYER : Petition is filed under Article 226 of the Constitution of India praying for the issue of a Writ of Habeas Corpus to direct the respondents 1 and 2 to secure and produce the person or body of the Petitioner's minor male child Balamurugan, son of Senthilkumar, aged



about 1 year and 11 months old before this Court and hand over his custody to the Petitioner.

For Petitioner : Mr.A.Prasanna Rajadurai

For Respondents : Mr.RMS.Sethuraman
1 and 2 Additional Public Prosecutor

For Respondents : Mr.R.Paranjothi
3 and 4 for M/s.KBS Law Office

ORDER

DR.G.JAYACHANDRAN.,J
AND
C.KUMARAPPAN.,J

This Habeas Corpus Petition has been filed by the mother of the detenue seeking a direction to the respondents 1 and 2 to secure and produce the person or body of the Petitioner's minor male child Balamurugan, son of Senthilkumar, aged about 1 year and 11 months old before this Court and hand over his custody to the Petitioner.

2.Heard the learned counsel appearing on either side and perused the materials placed before this Court.

3.The Petitioner herein is the mother of one Balamurugan, aged about 1 year and 11 months. She has filed this Habeas Corpus Petition



alleging that the child is in the illegal custody of his grand-father and father, who are arrayed as respondents 3 and 4.

4.The learned Additional Public Prosecutor, who takes notice on behalf of the respondents 1 and 2, submits that on investigation, it is found that already the fourth respondent has filed a Guardian O.P in G.W.O.P.NO.170 Of 2023.

5.The learned counsel for the fourth respondent/father of the minor child states that G.W.O.P.No.170 of 2023 has been filed to declare the fourth respondent as the natural guardian of the minor child Master Balamurugan and the same is pending adjudication before the Principal District Judge, Pudukkottai.

6.From the affidavit filed in support of the Habeas Corpus Petition and the documents, it appears that on 16.12.2023, the Petitioner herein has given a complaint to All Women Police Station, Thirumayam and a case was registered in C.S.R.No.263 of 2023 alleging that her husband had forcibly taken away the minor child on 09.12.2023 and the said complaint is under investigation. In the meanwhile, Habeas



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Corpus Petition has been filed for the very same relief and the husband has filed Guardian O.P.

7.Considering the facts of the case and the interest of the minor child, this Court is of the view that the allegation made by the Petitioner as against the fourth respondent is to be tested during the trial, which is now pending in G.W.O.P.No.170 of 2023. Under the guise of Habeas Corpus Petition, this Court need not dwell into findings to be rendered by the fact finding authority about the guardianship of the minor child.

8.For the reasons stated above, the Habeas Corpus Petition is disposed of, with a direction to the parties to work out their remedy before the Principal District Judge, Pudukkottai where G.W.O.P.NO.170 of 2023 is pending. The Principal District Judge, Pudukkottai shall take up the G.W.O.P.No.170 of 2023, on priority basis and dispose of the same as expeditiously as possible.

[G.J.,J.]

[C.K.,J.]

20.02.2024

NCS : Yes/No



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Index : Yes / No

Internet : Yes / No

vsn

To:

- 1.The Superintendent of Police,
Pudukkottai,
Pudukkottai District.
- 2.The Inspector of Police,
Thirumayam Police Station,
Pudukkottai District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

DR.G.JAYACHANDRAN, J.
and
C.KUMARAPPAN, J.

vsn



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ORDER MADE IN

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