



H.C.P.(MD).No.231 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 29.02.2024

CORAM

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

H.C.P.(MD).No.231 of 2024

Rajeswari

.. Petitioner/Mother of the Detenue

Vs.

1.The Superintendent of Police,
Tiruchirappalli District.

2.The Inspector of Police,
Vaiyampatty Police Station,
Tiruchirappalli District.

3.Saravanakumar

4.Raju

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to to issue a writ of Habeas Corpus, directing the respondents 1 and 2 herein to secure the detenue minor children namely V.Rosini, 17 years, V.Ilavarasi, 15 years, D/o.Late Vadivel and V.Thekkamalai, 11 years, S/o Late.Vadivel and produce them before this Court and handover the custody of them to petitioner.



WEB COPY



H.C.P.(MD).No.231 of 2024

For Petitioner : Mr.T.A.Ebenezer
For R-1 & R-2 : Mr.RMS.Sethuraman
Additional Public Prosecutor

ORDER

DR.G.JAYACHANDRAN,J.

and

C.KUMARAPPAN,J.

The petitioner, alleging that her minor children are under the illegal custody of the fourth respondent, who is the grandfather of the minor children/father-in-law of the petitioner, has filed the present Habeas Corpus Petition after lodging a complaint to the respondent Police on 30.01.2024.

2. The facts as found in the Habeas Corpus Petition as well as the records and also the submissions made by the learned Additional Public Prosecutor appearing for the respondent Police, indicate that the fourth respondent is the father of one Vadivel, who is none other than the husband of the petitioner. In suspicious circumstances, the said Vadivel died, which is presumed to be a suicide on the inducing of the petitioner herein. The petitioner was arrested for the offences under Section 294(b) and 306 IPC and was released on bail on 10.01.2024 vide order passed by this Court in CrI.O.P.(MD).No.126 of 2024 dated 08.01.2024. During the period of



H.C.P.(MD).No.231 of 2024

remand, the petitioner's children were in the custody of the fourth respondent, their grandfather. After coming out on bail, the petitioner in the capacity of natural guardian seeks custody of the children. However, her capacity and eligibility to be the guardian of the minor children is under cloud due to her involvement in a criminal case. Therefore, this Court, in a Habeas Corpus Petition, need not look into the capacity or eligibility of the petitioner to be the guardian of the minor children and it has to be decided in the manner known to law by the competent Court by examining the witnesses.

3. Hence, the Habeas Corpus Petition is dismissed with liberty to the petitioner to work out her remedy before the competent Court by filing appropriate petition and the concerned Court shall consider the same based on the interest of the children and take a decision according to its own merits, without being influenced by this order.

(G.J.,J.) (C.K.,J.)
29.02.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
Lm



H.C.P.(MD).No.231 of 2024

To

1.The Superintendent of Police,
Tiruchirappalli District.

2.The Inspector of Police,
Vaiyampatty Police Station,
Tiruchirappalli District.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



H.C.P.(MD).No.231 of 2024

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

Lm

H.C.P.(MD).No.231 of 2024

29.02.2024