



H.C.P.(MD) No.801 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.08.2024

CORAM:

**THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA
and
THE HONOURABLE MR.JUSTICE K.RAJASEKAR**

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M.Muthumari

... Petitioner

-VS-

1. The Superintendent of Police
Thoothukudi District
2. The Deputy Superintendent of Police
Thoothukudi Rural Sub Division
Thoothukudi
3. The Inspector of Police
Sipcot Police Station
Thoothukudi,
Thoothukudi District

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of habeas corpus directing the respondents to produce the person or body of the detenue namely Shamugapriya, W/o.Manikandan aged about 23 years and Kavishree, D/o.Manikandan aged about 6 years before this Hon'ble Court and set them at liberty.



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For Petitioner :Mr.S.Ayyanar Premkumar
for Mr.C.Bharathiraja
For Respondents :Mr.R. Meenakshi Sundaram
Additional Public Prosecutor

ORDER

[Order of the Court was made by A.D.JAGADISH CHANDIRA, J.]

This Habeas Corpus Petition has been filed by to direct the respondents to produce the person or body of the detinue namely Shanmugapriya, W/o.Manikandan aged about 23 years and Kavishree, D/o.Manikandan aged about 6 years before this Court and set them at liberty.

2. The case of the petitioner is that her daughter, Shanmugapriya/1st missing person got married to her relative one Manikandan from Sankaraperi seven years ago and out of the wedlock two girl children were born to them and they are presently aged about 7 and 6 years respectively. Her daughter Shanmugapriya on account of the matrimonial discord returned back to the petitioner's house and was living with the petitioner. Whiles, on 06.03.2024, her daughter Shanmugapriya was found missing along with her second daughter,



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Kavishree/2nd missing person and since she was unable to find out the whereabouts of her daughter and grant daughter, she had preferred a complaint before the third respondent. The third respondent had registered a case in Crime No.54 of 2024 for “woman and girl missing”. Since no further action has been taken by the third respondent, the petitioner has filed this petition.

3. Learned Additional Public Prosecutor would submit that the missing person and her daughter were traced at Kulamangalam, Madurai District within Alanganallur limit and she was found to be living with one Karuppaiah, S/o.Mahalingam and they were produced before this Court.

4. Mrs.A.Arockiya Jency, Sub Inspector of Police, SIPCOT Police Station produced the detenue and her minor daughter before this Court.

5. We enquired the 1st missing person, Shanmugapriya. She submitted that she was given in marriage to one Manikandan of Sankaraperi, seven years ago and that two children were born to them and they are aged about 7 and 6 years respectively. She further submitted that her husband is a lorry driver



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and he is a history sheeter and drunkard and that he used to harass her often under the influence of liquor and thereby, she left the matrimonial home and was living with her mother and during that time, she got acquainted with one Karuppaiah of Kulamangalam Village, Madurai District and that she is now living with him along with her second daughter, Kavishree. She also submitted that she is now pregnant and she, on her own volition, is living with the said Karuppaiah and is not under illegal custody of any one. She submitted that her first child Muthulatshika is now with her sister-in-law Seetha, W/o.Mareeswaran (younger sister of Manikandan).

6. The petitioner, Muthumari (Mother of Shanmugapriya/missing person), Veeralakshmi/Mother-in-law of the missing person and Seetha/Sister-in-law of the missing person, are also present before the Court.

7. We enquired the petitioner, Muthumari. She submitted that her daughter Shanmugapriya was given in marriage to her relative Manikandan before eight years and out of the wedlock, she has given birth to two girls, named Muthulatshika, aged 8 years and Kavishree (2nd missing person), aged 6 years.



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She further submitted that her daughter/the missing person, on account of the matrimonial discord, was living with her and the children were living with the family members of her son-in-law Manikandan and that her daughter without informing anybody taken the second child and went missing from 06.03.2021. She further submitted that her son-in-law, Manikandan is related to her and his family members were also living in the same locality and the children of her daughter were taken care by the in-laws of her daughter. She also submitted that her daughter, Shanmugapriya without informing anybody had taken the 2nd child and she been missing for the past four months.

8. We enquired Seetha, who is the sister of Manikandan, the husband of the missing person, Shanmugapriya. She submitted that her sister-in-law Shanmugapriya, was closely related to them even before the marriage with her brother and the said Shanmugapriya, on account of the matrimonial discord with her brother was living in her mother's house and both the children of Shanmugapriya namely, Muthulatshika and Kavishree were living with her and her family and she was all along taking care of them along with her own children. She further submitted that her sister-in-law, Shanmugapriya, without informing



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anybody had taken her 2nd child and went missing and her elder child Muthulatshika is very much affected by separation of her sibling. She also submitted that her husband is working as a container lorry driver and that they are economically well placed and that she is able to take care of her children as well as her brother's children, Muthulatshika and Kavishree. She further submitted that though the Shanmugapriya, is now separated from her brother, Manikandan, she has no objection in Shanmugapriya visiting her children anytime during the week ends.

9. We enquired the second missing person, Kavishree, aged about 6 years. We found her to be capable of understanding the questions. She submitted that due to the matrimonial discord, her mother, Shanmugapriya was living with her grandmother, Muthumari, whereas, she and her elder sister Muthulatshika were living with her paternal aunt Seetha and they were taken care by their paternal grandmother Veeralakshmi. She further submitted that on the compulsion of her mother, she has gone along with her mother and that she is very much missing her elder sister Muthulatshika, from whom she was separated. She requested that she may be sent along with her paternal aunt, Seetha and paternal



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grandmother, Veeralakshmi.

10. Having enquired the parties, we found that the first missing person, Shanmugapriya, is not in the illegal detention of anybody and the second missing person, Child Kavishree, who was all along living with her paternal aunt Seetha, had been separated from her elder sister Muthulatshika. The child Kavishree expressed that she had been separated from her elder sister and that she also expressed her desire to go along with her paternal aunt.

11. Taking into consideration the interest and welfare of the child Kavishree, we deem it appropriate to hand over the interim custody of the 2nd missing person/child Kavishree, aged about 6 years, to her paternal aunt Seetha. Since the children of Shanmugapriya are now being taken care by their paternal aunt Seetha, we direct the District Child Protection Officer, Thoothukudi District, to periodically monitor and supervise the welfare of the children.

12. In the event of the mother of the children, Shanmugapriya wanting to visit her children, Muthulatshika and Kavishree, she shall be permitted to visit



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them either at the house of her sister-in-law Seetha or at a common place, after due intimation to the third respondent.

13. It is made clear that taking into consideration the present situation and the interest of the children, the custody of the children Muthulatshika and Kavishree is handed over to their paternal aunt Seetha, as an interim arrangement, however, the parties are at liberty to approach the appropriate forum for custody in the event of any change in circumstances.

14. With the aforesaid observation, this habeas corpus petition is closed.

[A.D.J.C., J.] [K.R.S., J.]
02.08.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To:

1. The Superintendent of Police
Thoothukudi District
2. The Deputy Superintendent of Police
Thoothukudi Rural Sub Division



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3. The Inspector of Police
Sipcot Police Station
Thoothukudi,
Thoothukudi District
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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