



H.C.P.(MD) No.1004 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.08.2024

CORAM:

**THE HONOURABLE MR.JUSTICE C.V. KARTHIKEYAN
and
THE HONOURABLE MR.JUSTICE J.SATHYA NARAYANA PRASAD**

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S.Arunadevi

... Petitioner

-VS-

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

2.The Inspector of Police,
Silaiman Police Station,
Madurai District.

3.Jeyapandi

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus directing the respondents 1 and 2 to produce the body or person of the petitioner's daughter namely S.Dhiyapandi, D/o.Late R.Sankarapandian, Female, aged about 9 years before this Hon'ble Court and



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handover the custody of the child to the petitioner.

For Petitioner : Mr.R.Shankar Ganesh

For Respondents : Mr.T.Senthil Kumar
Additional Public Prosecutor

ORDER

The mother of a young child, who born on 08.10.2014 had filed the present Habeas Corpus Petition seeking to produce the child and handover the custody to her.

2. In the affidavit filed, the petitioner, who is working as a Grade-1 Police Constable stated that she had married Sankarapandian, who was also working as a Traffic Constable in Theppakulam Police Station. They also have another child who is now aged just one year and who is now with the petitioner. The husband of the petitioner met with a motor accident on 01.07.2023 and inspite of treatment given, unfortunately died on 25.11.2023.



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3. It is her grievance that the young child S.Dhiyapandian is in the custody of the third respondent/mother-in-law. One of the apprehensions raised by her is that her marriage was an inter-caste marriage and therefore, she had been practically ousted from the house of the third respondent and she is not even permitted to see her young child.

4. It is contended on behalf of the first and second respondents that from the date of the death of the husband of the petitioner, the child had been in the custody of the third respondent and she is also going to school from the house of the third respondent.

5. The respondents have produced the child who is now present before this Court. The third respondent/mother-in-law of the petitioner is also present. They are accompanied by the brother of the third respondent, Pandiarajan, S/o.Karmegam. He is a resident of Kattamankottai at Sivagangai District and he is doing agriculture.



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6. The child had probably been tutored and refuses to go with the petitioner herein. This Court cannot force the child to go with the petitioner. The only avenue available for the petitioner is to file a petition under the Guardians and Wards Act, 1890, seeking to appoint her as a guardian and seeking custody of the child. The scope of this Habeas Corpus Petition is to ensure that the child is safe and we can only make an interim arrangement for visitation of the petitioner to see her child.

7. The third respondent and her brother are not well aware of the facts of the various Court procedures. Therefore, we are constrained to seek the assistance of the District Legal Services Authority at Madurai. The Chairperson of the District Legal Services Authority may depute a para-legal volunteer to go over to the residence of the third respondent, Jeyapandi, W/o.Late.Rajapandi, residing at Nedungulam, Virathanur Post, Madurai District, and if that address falls within any Taluk Legal Services Authority, may issue special instructions for a para-legal volunteer from that Taluk to go over to the residence on every Saturday and with the help of All Women Police Station at Oomachikulam, talk to the child and facilitate the petitioner to have a meeting with the child at least



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every Saturday in a neutral place either in a nearby Temple or in the premises of the nearby Court/Legal Services Authority or in the premises of the District Legal Services Authority.

8. We have tried to explain these facts to the third respondent but we are not sure whether she was able to understand and therefore, it would also be appropriate that the Chairperson of the District Legal Services Authority appoints an Advocate from the Legal Aid to assist the third respondent to understand the nature of the order passed. More specifically, we direct Pandiarajan, S/o.Karmegam, who is today present, should not be available or be present when efforts are taken every Saturday for the child to have interaction with her mother/petitioner herein. The third respondent should also not take the assistance of any of her other relatives. Let there be one to one interaction between the third respondent, the para-legal volunteer, the legal aid Advocate, the petitioner and the child on every Saturday at around 10.00 a.m. The petitioner, as stated above, may take necessary recourse as provided in law to file an application under the Guardians and Wards Act, 1890.



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9. With the above observation, the Habeas Corpus Petition stands closed.

[C.V.K., J.] [J.S.N.P., J.]

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NCC : Yes / No
Index : Yes / No
Internet : Yes / No
PKN

To:

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



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