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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.10.2024

CORAM:

THE HONOURABLE MR.JUSTICE C.V. KARTHIKEYAN
and
THE HONOURABLE MS.JUSTICE R.POORNIMA

H.C.P.(MD) No.1296 of 2024

Amala Joshla ... Petitioner

-vs-

1. The State Rep. by
   The Commissioner of Police
   Trichy District.

2. The Inspector of Police
   Thiruvaramboor Police Station
   Trichy, Trichy District

3. Diego ....Respondents.

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus directing the respondents no. 1 and 2 to produce the person or body of the detenue the petitioner's son named Minor. Jaden Chris, S/o.Diego aged about 4 years before this Court and hand over the detenue to the petitioner.

For Petitioner : Mr.K. Kharikharadas
For Respondents No.1 and 2 : Mr.T.Senthil Kumar Additional Public Prosecutor
For R3 : Mr.P.Ganapathi Subramanian

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O R D E R

When the matter came up for hearing on 19.10.2024, this Court passed the following order :

" The learned counsel appearing for the petitioner is willing to stay with the third respondent/ her husband at E-3, A Block Brindhavan Apartment, Near Montfort School, Balaji Nagar, Trichy District. This house has been arranged by the third respondent. According to the third respondent the only issue is that his mother-in-law is staying in the house and seems to be a source of irritation.. The mother of the petitioner herein may reflect about the necessity to have peace and tranquility in her daughter's life and that she should not be a reason or cause of any quarrel between her dauther and the third respondent. She must be in a position to reconcile differences and not a reason for the same.

2. We are informed that the father of the petitioner is a Sailor and is at the high seas. But, however the mother of the petitioner has a separate house in Kanyakumar District and she may take care of that house and also live in peace and at times converse with the petitioner herein.

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3. We hope that his arrangement would be put in place. At any rate call the matter once again on 24.10.2024".

2. Today an affidavit had been filed by the third respondent, wherein he had undertaken as follows:

"3. I further submit that I agree and undertake the conditions mentioned below:

i. I undertake that I will jointly lice with the petitioner/mother of the detenue in the separate house situated at E3. A Block, Brindavan Apartment, Near Montfort School, Balaji Nagar, Trichy District.

ii. I further undertake that I will not change my minor son. D.Jaden Chris school which he is presently studying

iii I further undertake that my parents will not involve in our matrimonial life

iv. I further state that without any proper information to the petitioner/mother of the detenue I will not take my minor son D.Jaden Chris/detenue to anywhere.

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3. The petitioner has also filed an affidavit, wherein she had stated as follows:

"3. I further submit that I have agreed to the following terms hereunder:

i. I undertake that my mother will go to her home town which is situated at Door No.5/243, Loorthu Matha Street, Church Road, Kanyakumari- 629702 within 20 days.

ii) I further undertake that myself and the third respondent/husband alone will reside in the separate house situated at E3,A Block, Brindavan Apartment, Near Montfort Schook, Balaji Nagar, Trichy District,

iii) I further undertake that my mother will not interfere in our matrimonial life"

4. Similarly the mother of the petitioner has also filed an undertaking affidavit, wherein she had stated as follows:

"2. I further submit that I agree and undertake the conditions mentioned below:

i . I underact that I will not involve in the petitioner and the third respondent matrimonial life.

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ii) I further undertake that I will vacate the petitioner's house and going back to my native place and I will permanently reside at Door No.5/243, Loorthu Matha Streetm Church Road, Kanyakumari- 629 702 within 20 days.

5. We would not like the keep the matter pending any further . We are confident that the petitioner and the third respondent would take a prudent decision keep in mind the welfare of the young child and also their own peace in future.

6. The learned counsel appearing for the petitioner stated that the child should be permitted to stay with the petitioner and the mother-in-law should have the companionship of the petitioner for a period of ten days before she leaves to Kanyakumari .

7. We would place a request on the third respondent examine that particular fact and ensure that child enjoys the companionship of not only his parents and also his relatives more particularly the maternal grand mother

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8. We are confident that the third respondent would respond to such request and permit companionship. On these issues we would refrain from giving specific orders, but however we would call up on the parties to celebrate Christmas as one family.

9. No further orders are required to be passed. The Habeus Corpus Petitions stands closed.

[C.V.K., J.] [R.P., J.]
24.10.2024

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

1. The Commissioner of Police
Trichy District.

2. The Inspector of Police
Thiruvaramboor Police Station
Trichy, Trichy District

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

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R.POORNIMA, J.

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