



H.C.P.(MD)No.112 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.03.2025

CORAM:

THE HONOURABLE **DR.JUSTICE G.JAYACHANDRAN**

AND

THE HONOURABLE **MS.JUSTICE R.POORNIMA**

H.C.P.(MD)No.112 of 2025

P.Mary Shobana

... Petitioner/
Mother of the Detenue

-Vs-

1.The State of Tamil Nadu,
Represented by the Superintendent of Police,
Kanyakumari District,
At Nagercoil.

2.The Inspector of Police,
Suchindrum Police Station,
Suchindrum,
Kanyakumari District.

3.Moses Devanand

... Respondents

PRAYER: Habeas Corpus Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, directing the respondent No.1 and 2 to produce the detenue namely, Immanuel Beorn, aged 1 ½ years, son of P.Mary Shobana before this Court and hand over the custody to the petitioner.



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For Petitioner : Mr.N.Sudhagar Nagaraj
For R1 & R2 : Mr.E.Antony Sahaya Prabahar
Additional Government Pleader
For R-3 : Mr.R.Ilayaraja

ORDER

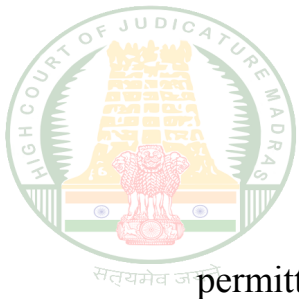
DR.G.JAYACHANDRAN, J.

AND

R.POORNIMA, J.

The petitioner herein, the mother of a 1 ½-year-old minor child, has filed this Habeas Corpus Petition alleging that the child is under the illegal custody of the 3rd respondent, who is the petitioner's father-in-law.

2. This Court, after issuing notice and calling the parties, found that the petitioner had left her child in the custody of the 3rd respondent soon after birth and gone abroad. Upon her return, some misunderstandings arose, prompting her to file the present Habeas Corpus Petition. When the minor child was produced before this Court on 24.02.2025, the child did not recognize the petitioner as its mother and refused to go with her. Therefore, this Court, vide order dated 24.02.2025,



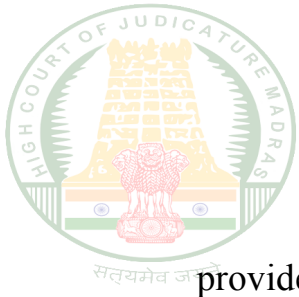
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permitted the petitioner to visit the inlaws house ie., the 3rd respondent's house to develop acquaintance with the child, thereby facilitating cordiality between them. The matter was then adjourned to 03.03.2025.

3. On 03.03.2025, when the matter came up for consideration, the minor child was brought to Court by the 3rd respondent, and the petitioner and others were present. This Court, after hearing the allegations made by the petitioner and the counter-allegations made by the 3rd respondent regarding the mishandling of the child by the petitioner, which allegedly caused a skin allergy leading to the child's admission to Asaripallam Government Hospital, Kanyakumari District on 02.03.2025, directed that the custody of the minor child shall continue with the 3rd respondent, taking into consideration the interest and well-being of the minor child. Meanwhile, the minor child's father, who was abroad at that time, was directed to appear before this Court on 28.03.2025.

4. Today, Mr. Bern Sojin, the husband of the petitioner / father of the minor child, was present. When enquired, he stated that, pursuant to the Court's order, he returned to India on 23.03.2025 to settle the dispute and



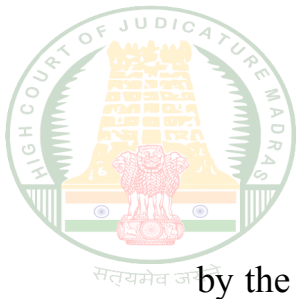
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provide the best care for the child. He submitted that the petitioner has no interest in the child's welfare but has instead filed the Habeas Corpus Petition with false allegations, solely to harass him and his family. He further alleged that the petitioner had left for abroad leaving their 1 ½ month old child and, upon her return, filed the present petition with the intention of causing disturbance to his family.

5. Surprisingly, though we expected the petitioner to be present today, so that we can facilitate the meeting of the mother with the child once again and improve the cordiality, the petitioner is absent. The counsel for the petitioner informed us that she has left India and will return next week. It has also been brought to our notice that the petitioner has filed a Special Leave Petition (SLP) before the Hon'ble Supreme Court in SLP (Criminal) No. 4343 of 2025, challenging the order passed by this Court on 03.03.2025. However, the Supreme Court has declined to entertain the petition and dismissed it on 27.03.2025.

6. In any event, this Court, considering the fact that the child is not under the legal custody of the 3rd respondent but is being taken care of



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by the 3rd respondent due to the petitioner's conduct of deserting the child and leaving for abroad in pursuit of better prospects in her life, observes that if the petitioner is genuinely interested in the welfare of the child and wishes to take custody, she is at liberty to file an appropriate petition before the jurisdictional Court seeking guardianship and custody. The dismissal of the present Habeas Corpus Petition will not prejudice her right to pursue remedies for obtaining custody/ guardianship/visitation rights, as she may deem fit.

7. Accordingly, the Habeas Corpus Petition stands dismissed.

[G.J., J.] & [R.P., J.]

28.03.2025

Index : Yes / No

Internet : Yes / No

NCC : Yes / No

Nsr



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To:

- 1.The Superintendent of Police,
The State of Tamil Nadu,
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At Nagercoil.
- 2.The Inspector of Police,
Suchindrum Police Station,
Suchindrum,
Kanyakumari District.



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