
(2014) 02 MAD CK 0109
In the Madras High Court
Case No : H.C.P. (MD) No. 54 of 2014

A. Muthu

APPELLANT

Vs

State

RESPONDENT

Date of Decision : 03-02-2014

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2014) CriLJ 2552

Hon'ble Judges : V.S. Ravi, J;S. Tamilvanan, J

Bench : Division Bench

Judgement

1. Heard the learned counsel appearing for the petitioner as well as the learned Additional Public Prosecutor appearing for the respondents 1 and 2 and the learned counsel appearing for the third respondent. This Habeas Corpus Petition has been filed by the petitioner, under Article 226 of the Constitution of India, seeking an order directing the respondents to produce his minor children namely Shenpagapriya, aged 9 years and Hariharan, aged 7 years, before this Court, from the illegal custody of the third respondent, who is none other than the maternal grandfather of the alleged detenues and set them at liberty.

2. Pursuant to the directions issued by this Court, the respondents 1 and 2 secured the presence of the alleged detenues/minor children of the petitioner. The third respondent/maternal grandfather of the alleged detenues is also present before this Court. However, the petitioner, who is the father of the alleged detenues is not present for the reasons best known to him.

3. It is an admitted fact that the mother of the alleged detenues namely Nadhiya died in a suspicious circumstance in her maternal home. After the death of the said Nadhiya, the alleged detenues are in the custody of their maternal grandparents, which is also not in dispute.

4. The learned counsel appearing for the petitioner requests this Court to adjourn or pass over the matter, since the petitioner is on the way and will reach the

Court after sometime.

5. We are of the view that the request made by the learned counsel appearing for the petitioner is an unreasonable one, because if the petitioner is really interested in the welfare of his children, who are the alleged detenues, he could very well be appeared before this Court. Unfortunately, the petitioner is not present before this Court but simply filed this petition as if the children are in the illegal detention of their maternal grandparents. It is not in dispute that the mother of the alleged detenues namely Nadhiya died in a suspicious circumstance by hanging at her matrimonial home. After the death of the said Nadhiya/mother of the alleged detenues, they are in the custody of their grandparents for about year. It is also seen that the children, the alleged detenues are happy with their maternal grandparents, who are present before this Court. The welfare of the minor children is paramount.

6. On the facts and circumstances of this case, we are of the view that this Habeas Corpus Petition is not legally maintainable and the same is liable to be dismissed as there is no illegal detention of the minor children, the alleged detenues and filing such petition has to be construed only an abuse of process of Court. In the result, this Habeas Corpus Petition is dismissed.