



HCP No. 1100 of 2026

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13-07-2026

CORAM

THE HON'BLE DR.JUSTICE ANITA SUMANTH

AND

THE HON'BLE MR.JUSTICE SUNDER MOHAN

HCP No. 1100 of 2026

K.Mahadevan
S/o.Kuppan,
Venkatramapuram, Bairnayakampatty,
Dharmapuri-636 906.
Presently residing at
Bypass Road, (Near Ladies Hostel),
Harur Taluk, Dharmapuri district.

..Petitioner(s)

Vs

1. The State rep.by,
The Superintendent of Police,
Dharmapuri District Police, Dharmapuri.
2. The Inspector of Police,
Harur Police Station,
Dharmapuri District.

..Respondent(s)

Prayer: Petition filed under Article 226 of Constitution of India praying for issuance of Writ of Habeas Corpus, directing the respondents to produce the petitioner's wife Sarasu, aged 26 years and the petitioner's minor daughter Shrinitha, aged 6 years before this court and set them at liberty.

For Petitioner(s):

Mr.F.Wellington and
Mr. M. Mohamed Saifulla



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For Respondent(s):

Mr.C.R.Malarvannan (for R1 and R2)
Counsel for Government of Tamil Nadu
(Criminal Side) and
Mr.O.G.Dhilip Roshan

ORDER

(Order of the Court was made by Sunder Mohan J.)

The petitioner, claiming to be the husband of one Sarasu, aged about 26 years and father of the minor daughter, Shrinitha, aged about 6 years, has prayed for a Writ of Habeas Corpus to produce them before this Court and set them at liberty. He has also alleged that on 25.01.2026, he found his wife and minor daughter missing from his residence.

2. The respondents produced both the absentees on 30.06.2026. We interacted with Ms.Sarasu. She had stated that there was no valid marriage with the petitioner; that they were living together since 2018; and that the other absentee, viz., Shrinitha, was born out of the said relationship. She would further state that the petitioner had been harassing them and therefore, she does not intend to live with him any more. Since the minor child was in her custody, we wanted to examine as to who would be the best person to have the custody, having regard to her welfare.



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3. Section 6 of the Hindu Minority and Guardianship Act, 1956, which stipulates as to who shall ordinarily have the custody of the minor child, was brought to our notice, during the course of the arguments. Section 6 provides that the custody shall ordinarily be with the mother if the child is illegitimate and the custody of a legitimate child above the age of five years would be with the father. Since, admittedly, the parties had not contracted a valid marriage, we were curious to ascertain the status of the child. Mr.O.G.Dhilip Roshan, learned counsel, offered to assist us in this regard.

4. Mr.O.G.Dhilip Roshan and the learned counsel for the petitioner brought to our notice several judgments and the relevant statutory provisions. We are *prima facie* of the opinion that in view of the amendment to Section 16 of the Hindu Marriage Act, the child has to be considered legitimate. However, we do not wish to further dilate on this aspect, as it would prejudice the rights of the parties in any proceedings for custody and in view of the order that we propose to pass.



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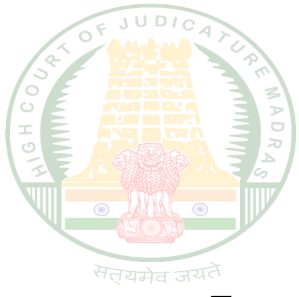
5. On our interaction with the petitioner and the absentee, viz., Sarasu, we are convinced that it would be in the best interest of the child to be in the custody of the mother. We do not see any reason to change the custody at this point of time, as the child is in the exclusive custody of the mother since January 2026.

6. Hence, this Habeas Corpus Petition is disposed of with liberty to the petitioner to seek appropriate remedy for custody of the child or for any other relief. It is needless to say that the Court shall consider the same on its merits without being influenced by any of the observations made in this order.

7. We record our appreciation for the assistance rendered by the learned counsel for the petitioner and Mr.O.G.Dhilip Roshan, learned counsel, in this regard.

(A.S.M.,J.) (S.M.,J.)
13-07-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No
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To

1. The Superintendent of Police,
Dharmapuri District Police,
Dharmapuri.
2. The Inspector of Police,
Harur Police Station,
Dharmapuri District.
3. The Public Prosecutor,
High Court, Madras.



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**DR.ANITA SUMANTH, J.
AND
SUNDER MOHAN, J.**

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