



H.C.P.(MD) No.580 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.05.2023

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN  
and  
THE HONOURABLE MRS.JUSTICE S.SRIMATHY

H.C.P.(MD) No.580 of 2023

M.S.Shaju

... Petitioner

-vs-

- 1.The Superintendent of Police  
Kanyakumari District
- 2.The Inspector of Police  
All Women's Police Station  
Kolachel, Kanyakumari District
- 3.The Inspector of Police  
Nithiravilai Police Station  
Kolachel, Kanyakumari District
- 4.Anand Barnabas

... Respondents

**PRAYER:** Petition filed under Article 226 of the Constitution of India, to issue a writ of habeas corpus directing the respondents 1 to 3 to produce the body or person of the detenues viz., petitioner's children, Babito Anand (19) and minor Akshara Anand (7), now in the illegal custody of the respondent No.4, before this Court and hand over them to the custody of the petitioner.



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For Petitioner : Mr.I.Robert Chandrakumar

For Respondents : Mr.T.Senthil Kumar  
Additional Public Prosecutor for R1 to R3

**ORDER**

Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the respondents 1 to 3.

**2.** Issuance of notice to the fourth respondent is dispensed with.

**3.** The petitioner got married to the fourth respondent way back in November, 2002. The elder son had already attained the age of majority and therefore, no relief could be sought against him. The daughter was born on 27.03.2016 and she is now aged 7 years.

**4.** The specific allegation of the petitioner is that the fourth respondent had forcibly taken away her daughter. Since it is a dispute between the husband and wife, the petitioner will have to necessarily move the jurisdictional Family Court or Sub Court for redressal of her grievance and the habeas corpus petition is not maintainable.



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**5.** Granting liberty to the petitioner to move the jurisdictional Family Court or the Sub Court, this habeas corpus petition is dismissed. We make it clear that we have not gone into the merits of the matter and all the contentions are left open.

**[G.R.S., J.]      [S.S.Y., J.]**

**10.05.2023**

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

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To:

- 1.The Superintendent of Police,  
Kanyakumari District.
- 2.The Inspector of Police,  
All Women's Police Station,  
Kolachel, Kanyakumari District.
- 3.The Inspector of Police,  
Nithiravilai Police Station,  
Kolachel, Kanyakumari District.
- 4.The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.



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**and**  
**S.SRIMATHY, J.**

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