



H.C.P(MD)No.1211 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.10.2023

Coram

THE HON'BLE MR.JUSTICE **S.M. SUBRAMANIAM**

and

THE HON'BLE MR. JUSTICE **V. LAKSHMINARAYANAN**

**H.C.P(MD)No.1211 of 2023**

A.Aishwarya,  
W/o.Alex Pandian,  
Pottapatti,  
Melur Taluk,  
Madurai District.

.. Petitioner/Mother of the detenu

VS

1.The Superintendent of Police,  
Office of the Superintendent of Police,  
Surveyor Colony,  
K.Putur,  
Madurai District.

2.The Inspector of Police,  
All Women Police Station,  
Melur,  
Madurai District.

3.G.Alex Pandian

4.Pothumponu

.. Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Habeas Corpus directing the respondents 1 and 2 to produce the person or body of the petitioner's son by name A.Sabareesan,



H.C.P(MD)No.1211 of 2023

s/o.Alex Pandian aged about 7 years and daughter A.Shivani, aged about 5 years before this Court and hand over the petitioner.

For Petitioner : Mr.N.Madhava Govindan

For RR 1 & 2 : Mr.A.Thiruvadi Kumar  
Additional Public Prosecutor

### **ORDER**

[Order of the Court was made by **S.M. SUBRAMANIAM, J.**]

The Habeas Corpus Petition has been instituted to direct the respondents 1 and 2 to produce the person or body of the petitioner's son by name A.Sabareesan, S/o.Alex Pandian, aged about 7 years and daughter A.Shivani, aged about 5 years before this Court and hand over to the petitioner.

2.Both the petitioner as well as the third respondent along with two minor children are present before this Court.

3.The learned Additional Public Prosecutor appearing for the respondents 1 and 2 made a submission that a complaint was given by the petitioner/wife against her husband/third respondent regarding the allegation of harassment. The police authorities have conducted an investigation and found that matrimonial dispute exists between the petitioner and the third respondent.



WEB COPY

4. Admittedly, the children are with the custody of the third respondent as of now. The petitioner states that the third respondent is not permitting her even to visit the children and the children were forcibly taken away from her, which resulted in the filing of the present Habeas Corpus Petition.

5. We have examined the petitioner, the third respondent and the minor boy Master A. Sabareesan, aged about 7 years. The girl is attached to the petitioner, as we could be able to visually realize, and the boy on examination was found to be tutored. The petitioner/mother made a statement before us that she is capable of earning herself and for their children and therefore, the custody of her children is to be handed over to her. Per contra, the allegations against the third respondent are serious in nature and as per the version of the petitioner, he is having an illicit affair with the fourth respondent, who is a married woman and has children.

6. We are of the opinion that two minor children need not be separated which would affect their future life and more so, the children are aged about 7 years and 5 years respectively. Taking note of the facts and



*H.C.P(MD)No.1211 of 2023*

circumstances, the petitioner is permitted to take custody of the children. In respect of the matrimonial disputes, the parties are at liberty to approach the competent civil Court/Family Court for the purpose of redressal of their grievances. The third respondent shall not interfere with the custody of the minor children with the petitioner-mother and in the event of any such interference or force by the third respondent, the petitioner is at liberty to approach the jurisdictional police, who in turn shall initiate appropriate action and protect the petitioner as well as two minor children for their life safety and security.

7.This Habeas Corpus Petition is disposed of. There shall be no order as to costs.

**(S.M.S.,J.) (V.L.N.,J.)**  
09.10.2023

Index : Yes/No  
Neutral Citation : Yes/No  
ps



*H.C.P(MD)No.1211 of 2023*

WEB COPY

- To
- 1.The Superintendent of Police,  
Office of the Superintendent of Police,  
Surveyor Colony,  
K.Putur,  
Madurai District.
  - 2.The Inspector of Police,  
All Women Police Station,  
Melur,  
Madurai District.
  - 3.The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.



WEB COPY



*H.C.P(MD)No.1211 of 2023*

**S.M. SUBRAMANIAM, J.,**  
**and**  
**V. LAKSHMINARAYANAN, J.,**

ps

H.C.P(MD)No.1211 of 2023

09.10.2023