



H.C.P.(MD) No.454 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.04.2024

CORAM:

**THE HONOURABLE MR.JUSTICE R.SURESH KUMAR
and
THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN**

H.C.P.(MD) No.454 of 2024

Thiruppathi

... Petitioner

-vs-

1.The Commissioner of Police
Madurai City, Madurai

2.The Inspector of Police
Avaniyapuram Police Station
Madurai City, Madurai

3.Sankar

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of habeas corpus directing the respondents 1 and 2 to produce the person or body of the detenue, namely, Devika, aged about 22 years, wife of Thiruppathi and Thiyas Velan, aged about 1 ½ years, son of Thiruppathi, before this Court and set them at liberty.



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H.C.P.(MD) No.454 of 2024

For Petitioner : Mr.K.Anandraj
For Respondents : Mr.RMS.Sethuraman
Additional Public Prosecutor for R1 & R2

ORDER

[Order of the Court was made by R.SURESH KUMAR, J.]

This habeas corpus petition has been filed by the petitioner to produce the person or body of his wife, namely, Devika, aged about 22 years and child, namely, Thiyas Velan, aged about 1 ½ years, before this Court and set them at liberty.

2. Today, when the case is taken up for hearing at the admission stage, the respondent – Police, represented by Mr.RMS.Sethuraman, learned Additional Public Prosecutor, has produced the detainee girl along with her 1 ½ years old child. The petitioner is also present before this Court and the third respondent is also present before this Court.

3. In May, 2021, marriage has been solemnized between the petitioner and the detainee. Out of the wedlock, the detainee gave birth to a male child, who is presently 1 ½ years old.



H.C.P.(MD) No.454 of 2024

WEB COPY

4. Despite the family living going on smoothly, at one point of time, there seems to be some strained relationship between them, resultantly, the detenue left the matrimonial house.

5. However, it has come to light now that the detenue girl fell in love with the third respondent, who is none other than the cousin of the petitioner. Therefore, according to the learned Additional Public Prosecutor appearing for the respondent – Police, there has been a prohibited relationship between the third respondent and the detenue.

6. Despite this prohibited relationship, the third respondent and the detenue seem to have fallen in love and they want to live together.

7. Insofar as the petitioner is concerned, he wants to live with his wife i.e., the detenue and also to nurture the child, who is aged now 1 ½ years old.

8. For the reliefs of restitution of conjugal rights and custody of child, if the petitioner wants to pursue the same, he can approach the



H.C.P.(MD) No.454 of 2024

appropriate Court for getting such reliefs, as presently the detenue does not want to return back to the matrimonial home.

9. Insofar as the relationship between the third respondent and the detenue girl is concerned, since it is a prohibited one, Court cannot permit the detenue girl to reside or live with the third respondent. Therefore, the following orders are passed in this habeas corpus petition:

- (i) The detenue girl shall reside for the time being at her parental house along with her mother and the child.
- (ii) The petitioner would have a visitation right as and when required.
- (iii) If such a visit is made by the petitioner, the same shall be permitted by the detenue and her mother or anyone in the parental house without preventing the petitioner to have visitation right to see the child.
- (iv) It is open to the petitioner to approach the appropriate forum to seek such remedies, like, restitution of conjugal rights and custody of child.



H.C.P.(MD) No.454 of 2024

WEB COPY (v)

Till such arrangement is made by the competent Court, the present arrangement shall continue.

- (vi) Despite this order, if the third respondent wants to continue any relationship with the detainee girl and if it is brought to the notice of the concerned jurisdictional Police by the petitioner or anyone, suitable action, in accordance with law, can be taken by the Police.

10. With the above directions, since the detainee girl has been produced before this Court, this habeas corpus petition recording the same is disposed.

[R.S.K., J.]

[G.A.M., J.]

12.04.2024

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

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H.C.P.(MD) No.454 of 2024

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Madurai City, Madurai.
- 2.The Inspector of Police,
Avaniyapuram Police Station,
Madurai City, Madurai.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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H.C.P.(MD) No.454 of 2024

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H.C.P.(MD) No.454 of 2024

12.04.2024