



**H.C.P.(MD) No.721 of 2024**

**WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED : 03.07.2024**

**CORAM:**

**THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA  
and  
THE HONOURABLE MR.JUSTICE K.RAJASEKAR**

**H.C.P.(MD) No.721 of 2024**

Kavitha

... Petitioner

**-VS-**

1.The Superintendent of Police,  
Virudhunagar District.

2.The Inspector of Police,  
All Women Police Station,  
Srivilliputhur,  
Virudhunagar District.

3.Dhanaraj

... Respondents

**PRAYER:** Petition filed under Article 226 of the Constitution of India, to issue a writ of habeas corpus to direct the second respondent to produce the body or person of the petitioner's son/minor detenu namely Joel, son of Dhanaraj, aged about 4 years before this Court from the third respondent and handover the minor detenu at the hands of the petitioner.



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|----------------|----------------------------------------------------------|
| For Petitioner | :Mr.A.Balakrishnan                                       |
| For R1 & R2    | :Mr.R.Meenakshi Sundaram<br>Additional Public Prosecutor |
| For R3         | :Mr.M.Thirunavukkarasu                                   |

## **ORDER**

**[Order of the Court was made by A.D.JAGADISH CHANDIRA, J.]**

This Habeas Corpus Petition has been filed by the mother of the detenu seeking to produce the body or person of the petitioner's son/minor detenu namely Joel, son of Dhanaraj, aged about 4 years before this Court and handover the minor detenu at the hands of the petitioner.

2. The case of the petitioner is that the marriage between her and the third respondent was solemnized in the year 2018. Due to wedlock, they were blessed with male child on 13.05.2000 and now he is 4 years old. The third respondent had without any reason doubted the character of the petitioner and there used to be frequent quarrels and further due to the harassment made by the third respondent, the petitioner has left the matrimonial home and she moved to



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her parental home at Srivilliputhur along with child. On 10.06.2024 when the petitioner along with her child was at her parental home the third respondent came there and forcibly took the minor child from her custody. The mobile phone of the third respondent is also switched off and she is unable to trace out her child. The petitioner has made a complaint before the second respondent on 11.06.2024 and the same was taken on file as CSR.No.315/2024. Since no further action has been taken by the respondents, the petitioner has filed the present habeas corpus petition.

3. The learned counsel appearing for the petitioner would submit that the petitioner is the mother of the child. Due to matrimonial discord, she has been living separately at her parental home at Srivilliputhur and the third respondent on 10.06.2024 came to the house of the petitioner's parental home and forcibly taken the minor child and since she is unable to find out the whereabouts of the child, she has approached this Court.

4. The learned Additional Public Prosecutor appearing for the respondents 1 & 2 would submit that based on the complaint given by the



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petitioner, an enquiry has been conducted in CSR No.315/2024. During the enquiry, it came to light that there is a matrimonial dispute between the petitioner and the third respondent and after the mediation of the family members, the custody of the child has been handed over to the third respondent and it transpired that the third respondent also filed G.W.O.P.103 of 2024 seeking custody of the child. He would further submit that the third respondent is the father of the child and he is also a natural guardian of the minor child.

5. The learned counsel appearing for the third respondent would submit that the third respondent is husband of the petitioner and they got married in the year 2018 and the child was born on 13.05.2000. The child is 4 years old. While they were living at Chennai, there was a matrimonial dispute and that the petitioner had gone to her parental home along with child. Thereafter, the third respondent had gone to the house of the petitioner and Mediation was conducted in the presence of the family members of the petitioner as well as the third respondent and during such time, the petitioner had voluntarily handed over the custody of the child to the third respondent. The senior paternal uncle of the petitioner Mr.Thangavel has also filed a supporting affidavit contending that the



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petitioner had voluntarily handed over the child to the third respondent during the mediation talks. The third respondent being the natural guardian also filed G.W.O.P.No.103 of 2024 seeking custody of the child and there is no illegal custody involved in this matter.

6. In view of the above facts and also taking note of the supporting affidavit of the senior paternal uncle (பெரியப்பா) of the petitioner, we find that it is not a case of snatching away or illegal detention of child and thereby this habeas corpus petition is closed however granting liberty to the parties to work out their remedy in the manner known to law before the appropriate forum.

**[A.D.J.C., J.]      [K.R.S., J.]**  
**03.07.2024**

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



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To:

- 1.The Superintendent of Police,  
Virudhunagar District.
- 2.The Inspector of Police,  
All Women Police Station,  
Srivilliputhur,  
Virudhunagar District.
- 3.The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.



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**A.D.JAGADISH CHANDIRA, J.**  
**AND**  
**K.RAJASEKAR, J.**

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