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H.C.P.No.207 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

<i>Reserved on</i>	<i>03.03.2025</i>
<i>Pronounced on</i>	<i>21.03.2025</i>

CORAM :

THE HONOURABLE MR. JUSTICE M.S. RAMESH

AND

THE HONOURABLE MR. JUSTICE N. SENTHILKUMAR

H.C.P.No.207 of 2025

S.Manimegalai

... Petitioner

Vs.

1.The Commissioner of Police,
Commissioner Office,
Tiruppur District.

2.The Deputy Commissioner of Police,
Commissioner Office,
Tiruppur District.

3.The Inspector of Police,
Kongu Nagar All Women Police Station,
Tiruppur District.

4.Suresh Kumar

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India,
praying for the issuance of Writ of Habeas Corpus, directing the



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respondents 1 to 3 to secure and produce the body or person of the petitioner's children 1). Shathana, D/o.Sureshkumar, aged 11 years and 2). Sachin, S/o.Sureshkumar, aged 8 years, before this Court and handover their legal custody to the petitioner.

For Petitioner	: Mr.T.Balachandran
For R1 to R3	: Mr.R.Muniyapparaj, Additional Public Prosecutor
For R4	: Mr.C.Rajaguru

ORDER

M.S.RAMESH, J.

The petitioner herein who is the wife of the fourth respondent, is blessed with minor daughter, aged about 11 years and minor son, aged about 8 years. Owing to some matrimonial disputes between the couple, her minor children are now under the care and custody of the fourth respondent herein. Claiming that her children are under the illegal custody of the fourth respondent herein, she had given a police complaint and ultimately, has preferred this Habeas Corpus Petition.

2. Pending the Habeas Corpus Petition, the learned Additional Public



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Prosecutor had produced the fourth respondent herein, together with both the minor children on 14.02.2025. Since the petitioner was not present on the said date, the matter was adjourned to 03.03.2025 for her appearance.

3. Today we had interacted with the petitioner, her husband/fourth respondent and their two minor children in our Chambers. After hearing them for considerable time, we are of the view that owing to the matrimonial dispute between the petitioner and the fourth respondent, the minor children have been constrained to live in the care and protection of the fourth respondent herein. The children had also expressed that they are comfortably taken care of by the fourth respondent, apart from his parents, brothers and sisters-in-law, who are all in a joint family. We are also appraised of the fact that the children are now studying in school and their final examinations are scheduled to take place this month.

4. From the disputed allegations made by the petitioner, as well as the fourth respondent against each other, we are of the view that such disputed facts cannot be resolved by this Court in exercise of its powers under Article 226 of the Constitution of India. Since the custodial rights of the



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parties over the minor children also revolves around the allegations made by them against each other, the appropriate forum to resolve the dispute would be the concerned Family Court, having territorial jurisdiction over the dispute.

5. In the light of the above observations, we hereby grant liberty to the petitioner to approach the concerned Family Court, having territorial jurisdiction over the dispute to enforce her right to seek for custody of the minor children. Till such time, the present status of the children being under the care and protection of their father/fourth respondent, shall continue, until final orders are passed by the concerned Family Court. We hereby clarify that in case any application seeking for custodial rights is filed, the concerned Family Court shall deal with the same on its own merits and pass appropriate orders, without being influenced with any of the observations or findings in this order. We also grant liberty to the petitioner and her parents/maternal grandparents of the minor children, to visit the minor children in the residence of the fourth respondent/father and during such visits, neither the fourth respondent nor his family members, shall cause any inconvenience that may be detrimental to their visit.



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6. With the above liberty, this Habeas Corpus Petition stands closed.

No costs.

[M.S.R, J.]

[N.S, J.]

21.03.2025

Index: Yes/No

Speaking order/Non-speaking order

Sni

To

1.The Commissioner of Police,
Commissioner Office, Tiruppur District.

2.The Deputy Commissioner of Police,
Commissioner Office, Tiruppur District.

3.The Inspector of Police,
Kongu Nagar All Women Police Station,
Tiruppur District.

4.The Public Prosecutor,
High Court, Madras.



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and
N. SENTHILKUMAR, J.

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order made in
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21.03.2025