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HCP.No.200 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.01.2025

CORAM :

**THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM**

**AND**

**THE HONOURABLE MR. JUSTICE M.JOTHIRAMAN**

**H.C.P.No.200 of 2025**

N.M.Vinodh Kumar

... Petitioner

***Vs.***

1. The Commissioner of Police,  
Egmore, Chennai.

2. Inspector of Police,  
V6 Police Station,  
Kolathur.

3. Child Welfare Committee,  
No.300, Purasaiwalkam,  
Kellyes,  
Pin - 600 010.

... Respondents

**PRAYER:** Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, to direct the first and second respondents to produce the petitioner's new born child Jai Dev. N.V. S/o. Vinod Kumar, aged about 16 months baby before this Court from the custody of the 3rd respondent and further to hand over custody of the child to the petitioner herein.



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For Petitioner : Mr.K.Ashok Kumar  
For Respondents : Mr. R.Muniyapparaj  
Additional Public Prosecutor

### **ORDER**

(Order of the Court was made by the Hon'ble *S.M.SUBRAMANIAM, J.*)

The writ of habeas corpus petition has been instituted to direct the respondents 1 and 2 to produce the petitioner's new born child *viz.*, Jai Dev N.V. S/o. Vinod Kumar aged about 16 months from the custody of the third respondent/Child Welfare Committee.

2. The marriage between the petitioner and one Smt.S.R.Archana was solemnised on 13.06.2016 as per the Hindu Rights and Customs. From and out of their wedlock one male child born named as Jai Dev N.V. And now aged about one year and four months. The petitioner and his wife is living separately on account of matrimonial dispute. On earlier occasion, the mother/S.R.Archana filed HCP.No.2065 of 2024 and during the relevant point of time, the child was with the custody of the mother. Since the child is aged one year and four months old, this Court recorded the fact that the



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custody of the child was with the mother and the mother should continue to have the custody. The habeas corpus petition was allowed, consequently.

3. The present habeas corpus petition has been filed by the father of the child on the ground that the child was again taken by the third respondent/Child Welfare Committee based on the complaint given against the mother/S.R.Archana.

4. The allegations against the mother is that she was not looking after the child properly. Presently, the child is with the custody of the Child Welfare Committee and the petitioner has filed the present habeas corpus petition seeking custody.

5. Pertinently, the mother has not been impleaded as party respondent in the present habeas corpus petition. We have allowed the earlier habeas corpus petition filed by the mother on the ground that the child was four months old at that point of time and mother must have the custody under the provisions of the Hindu Minority and Guardianship Act,



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1956. Therefore, in the present habeas corpus petition, the petitioner cannot seek custody. Since the child is with the custody of the Child Welfare Committee, the petitioner has to work out his remedy before the competent forum under Juvenile Justice Act or by approaching competent court of law.

6. With the above observations, the Habeas Corpus Petition stands **dismissed**.

[S.M.S., J.] [M.J.R., J.]  
30.01.2025

Index : Yes/No  
Speaking Order : Yes/No  
Neutral Citation : Yes/No  
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To

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Egmore, Chennai.
2. Inspector of Police,  
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3. Child Welfare Committee,  
No.300, Purasaiwalkam,  
Kellyes,  
Pin - 600 010.
4. The Public Prosecutor,  
Madras High Court,  
Chennai - 104.



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**S.M.SUBRAMANIAM, J.**  
**AND**  
**M.JOTHIRAMAN, J.**

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