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H.C.P.No.434 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.04.2025

CORAM :

THE HONOURABLE MR. JUSTICE M.S. RAMESH
and
THE HONOURABLE MR. JUSTICE N.SENTHILKUMAR

H.C.P.No.434 of 2025

Subashini
W/o. Dhinakaran

... Petitioner

Vs.

1. The Superintendent of Police,
Kallakurichi District.

2. The State rep. By its
The Inspector of Police,
Kallakurichi Police Station,
Kallakurichi District.

3. Dhinakaran

... Respondents

PRAYER: This Habeas Corpus Petition is filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus directing the first and second respondents to produce the petitioner's children namely, Rakshan, aged about 6 years and Thalapathy, aged about 4 years before this Court from the custody of the third respondent and hand over their custody to the petitioner forthwith.

For Petitioner : M/s. R. Raji



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For Respondent : Mr. R. Muniyapparaj
Nos.1 and 2 Additional Public Prosecutor
Assisted by Mr.M.Sylvester John

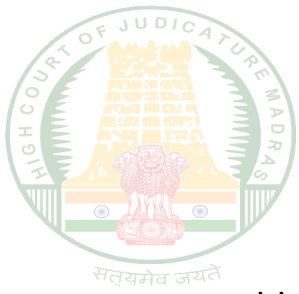
For Respondent No.3 : Mr. M. Vijayaraghavan

ORDER

(Order of the Court was made by M.S.RAMESH, J.)

The petitioner herein is the mother of two minor boys, namely, Rakshan, aged about 6 years and Thalapathy, aged about 4 years. According to the petitioner, the father / third respondent is illegally having custody of the children and refusing to permit the petitioner to visit the children and hence, present Habeas Corpus Petition is filed.

2. As on date, the third respondent / husband is in custody of the children. Both the petitioner and the third respondent as well as the minor children are present before us. We are of the view that the matrimonial dispute between them to be resolved if they are subjected to mediation. Accordingly, the matter was referred to Mediation and Conciliation Centre attached to this Court on 21.03.2025. However, it is reported that the mediation failed.



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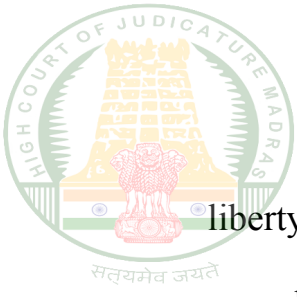
3. We heard the learned counsel appearing appearing for both the petitioner as well as the third respondent.

4. According to the petitioner, the third respondent / husband is in the habit of consuming alcohol and abusing the petitioner.

5. The third respondent would submit that the petitioner had eloped with a person. It is also stated that the petitioner herein had preferred a petition for divorce in H.M.O.P.No.16 of 2025 before the Additional Sub Court, Kallakurichi, and the same is pending.

6. When both the parties have made contradictory statements abusing each other, this Court, in exercise of its power under Article 226 of the Constitution of India, cannot venture into those disputed facts. In this background, we are of the view that the parties may be granted liberty to approach the Family Court concerned seeking for custodial / visitation rights.

7. Accordingly, the present Habeas Corpus Petition stands closed with

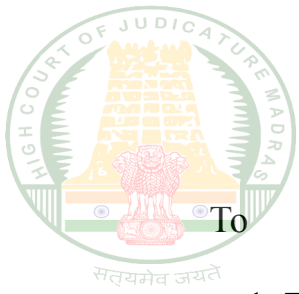


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liberty to workout the remedy before the Family Court concerned with regard to custody of the children and visitation rights. Till an appropriate order is passed by the Family Court concerned, the children namely, Rakshan, aged about 6 years and Thalapathy, aged about 4 years, shall be with the third respondent / father. However, the petitioner / mother shall have the right to visit her children during every weekend namely, Saturday and Sunday. In case, any application for custody of the children and visitation rights is filed, the Family Court concerned shall adjudicate the same without being influenced by any of the observations made in this order.

(M.S.RAMESH J.) (N.SENTHILKUMAR J.)
22-04-2025

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1. The Superintendent of Police,
Kallakurichi District.
2. The Inspector of Police,
Kallakurichi Police Station,
Kallakurichi District.
3. The Additional Sub Court,
Kallakurichi.
4. The Public Prosecutor,
High Court of Madras, Chennai.



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M.S.RAMESH, J.
and
N.SENTHILKUMAR, J.

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