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H.C.P.No.1795 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.11.2025

CORAM:

THE HONOURABLE MR. JUSTICE N.SATHISH KUMAR

AND

THE HONOURABLE MR. JUSTICE M.JOTHIRAMAN

H.C.P.No.1795 of 2025

Venkatesan

... Petitioner

Versus

1.The State Rep by
District Superintendent of Police
Kallakurichi District

2.The Inspector of Police
Edaikal Police Station
Ulundurpet, Kallakurichi District

3.Ashok Kumar

.. Respondents

PRAYER: Habeas Corpus Petition is filed under Article 226 of Constitution of India, pleaded to issue a Writ of Habeas Corpus, directing the respondents 1 and 2 Police to produce the petitioner's son Shajeenashri, S/o.Venkatesan about 9 years from the custody of the third respondent before this Court and handover to the petitioner.

For Petitioner : Mr.R.Sankarasubbu

For Respondents : Mr.A.Damodaran for R1 & R2
Additional Public Prosecutor
Mr.Krishnasamy Chinnasamy for R3



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ORDER

(Order of the Court was made by **N.SATHISH KUMAR, J.**)

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This is the second Habeas Corpus Petition for production and handing over of the minor aged about 9 years. According to the petitioner, he is the biological father of the detainee Shajeevanshri aged about 9 years and the third respondent is not a legal guardian.

2. According to the petitioner, Ramani is the petitioner's second wife. The petitioner married the said Ramani on 01.02.2015 and the child named Shajeevansri was born on 22.12.2016, however, due to misunderstanding with the petitioner, his wife Ramani eloped with third respondent on 01.03.2019 along with the child. Later the third respondent inflicted cruelty and murdered the said Ramani on 18.08.2024. The minor child was in the custody of Pushpavalli, mother of the third respondent. The third respondent was arrested in a murder case, therefore, at this stage, the petitioner has moved HCP.No.2263 of 2024. The said petition was dismissed vide order dated 25.09.2024 on the ground that the child was in the custody of Pushpavalli who is none other than the grandmother of the detainee. According to the petitioner, this Court while dismissing the petition wrongly opined that



Pushpavalli is the grandmother of the detainee. According to the petitioner,

Pushpavalli is the mother of the third respondent. Hence, the petitioner being the legal guardian of the child filed the second HCP.

3. When the Court has entertained a doubt in the earlier occasion since the earlier HCP was dismissed, Mr.Sankarasubbu, learned counsel for the petitioner submitted that the earlier application was dismissed on the ground that the child was with the grandmother, whereas, the so-called grandmother is not the actual grandmother, she is only the mother of the third respondent, who is the accused in the murder case in Cr.No.264 of 2024. The said case has been registered on the basis of the complaint of the mother of the deceased namely Lakshmi, therefore, would submit that the child has to be handed over to him.

4. Today, the child was produced before this Court. Though, the petitioner has stated that the child name is Shajeevanshri, but the fact remains that the child name is Arjun. We have interacted with the child. The child is aged 9 years and is capable of understanding the nature of things and is



studying third standard. When interacted he submitted that his father's name is Ashok Kumar and he is in the custody of the father and the child has not even recognised the petitioner. Mr.Sankarasubbu, learned counsel would submit that the child is the main witness in the murder case and the petitioner is the natural guardian and being the father, he is entitled to custody.

5. Heard both sides and perused the materials placed on record including the CD files in Cr.No.264 of 2024.

6. Of course, the third respondent is arrayed as an accused for the alleged murder of her daughter based on the complaint given by one Lakshmi, who is the mother of the deceased Ramani. The very FIR filed by Lakshmi clearly indicate that her daughter Ramani has married Ashok Kumar and their marriage is registered before the Villupuram Registrar Office. After the marriage, they were leading the matrimonial life and from the wedlock, two children were born to them, viz., one Arjun aged 7 years and another Shakthi, aged 5 years. The mother of the deceased on whose instance the criminal case is registered in Cr.No.264 of 2024 as against the third respondent who herself



has stated in complaint before the police that the minor Arjun was born to the third respondent and her daughter. Further, the very application filed by the petitioner itself clearly indicate that from 01.03.2019 onwards, he has no connection whatsoever with the child and the child is all along in the custody of the 3rd respondent and his wife, therefore, at this stage, we are of the view that the contention of the petitioner cannot be countenanced.

7. Though the learned counsel for the petitioner would submit that birth extract is also available to prove the paternity, we are of the view that as a mother of the deceased herself had given a statement that the child was born to third respondent, if, still the petitioner wants to prove the paternity, same is a matter of evidence which has to be established in the manner known to law before the appropriate Court. As from our interaction, we could infer that the child is very comfortable with the third respondent and also the so-called grandmother/Pushpavalli, who are also present before this Court, such view of the matter we do not find that the child is in illegal custody.

8. Even though it is alleged that the third respondent has killed his wife and he is facing charge, on perusal of the CD files, in fact, the medical



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evidences would not ascertain the cause of death. Be that as it may, we are not delving into that matter, but the fact remains that the child was never in the custody of the petitioner all along. The petitioner statement itself indicate that from 01.03.2019 onwards, he lost contact with the child. Such view of the matter, we are not willing to hand over the child at present since the child is very comfortable in the present status with the third respondent and third respondent's mother Pushpavalli. If the petitioner wants the establish his right for custody, his remedy lies somewhere else not before the HCP Court.

9. Accordingly, this petition stands dismissed. No costs.

(N.S.K., J.) (M.J.R., J.)
19.11.2025

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Index :Yes/No
Internet:Yes/No

To,

1.The District Superintendent of Police

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Kallakurichi District

2. The Inspector of Police
Edaikal Police Station
Ulundurpet, Kallakurichi District

3. The Public Prosecutor
Madras High Court.

N. SATHISH KUMAR, J.
and
M. JOTHIRAMAN, J.



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