



WEB COPY



H.C.P.No.2164 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.10.2025

C O R A M

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

AND

THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN

H.C.P.No.2164 of 2025

Karthikeyan Senniappan

... Petitioner

-VS-

1. The Commissioner of Police
Coimbatore City,
O/o. Commissioner of Police Coimbatore City,
Huzur Road, Coimbatore - 641 018.
2. The Inspector of Police,
Peelamedu Police Station,
Peelamedu, Coimbatore.
3. Deputy High Commissioner,
The British Deputy High Commission Chennai,
20, Anderson Road, Thousand Lights West,
Gandhi Nagar, Chennai – 600006.
4. Mrs.Sridevi Chinnasamy
5. Mr.N.C.Chinnasamy
6. Mr.C.Chinthamani
7. Mr.Mahesh Chinnasamy
8. Mrs.Akila Mahesh

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of Writ of Habeas Corpus, directing the respondents 1



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& 2 herein to produce the body or in person of petitioner's minor children, namely, Miss.Mithra Karthikeyan, D/o.Karthikeyan Senniappan, aged 15 years and Master.Vikram Karthikeyan, S/o.Karthikeyan Senniappan, aged 7 years from the custody of the 4th to 8th respondents before this Court and hand over to the petitioner.

For Petitioner : Mr.S.R.Rajagopal, Senior Counsel
For M/s.CRM Legal
For R1 & R2 : Mr.A.Damodaran
Addl. Public Prosecutor
Asst. by Ms.M.Arifa Thasneem
Advocate

ORDER

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

The petitioner, who is the father of minor children, has filed this petition for production of his children, who are stated to be in the custody of his wife.

2. According to the petitioner, he married the 4th respondent on 25.10.2007 at Tiruppur District and thereafter, moved to the United Kingdom, where they permanently settled. Out of wedlock, two children aged about 15 years and 7 years were born to them. Consequent to the



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matrimonial dispute between the petitioner and his wife, she initiated divorce proceedings in the Court of United Kingdom and subsequently, the same was settled by mutual consent and a financial remedy order was passed by the Family Court, Central Family Court, United Kingdom in Case No.1659-5385-3391-6095 on 15.03.2024. Thereafter, by an order dated 16.04.2024, the marriage was dissolved. After divorce, the 4th respondent has been residing in the United Kingdom along with minor children.

3. It is the case of the petitioner that he spoke to his children over phone frequently and also visited London on four occasions. To his shock and surprise, the 4th respondent curtailed his right over the children and created obstacles in his communication with them. Therefore, the petitioner filed an application under Section 8 of the Children Act, 1989, seeking a Child Arrangements Order, Prohibited Steps Order and Specific Issue Order before the West London Family Court in Case No.ZW25P00719 on 19.05.2025. During hearing of the case, the 4th respondent appeared through Video Call and stated that she had been residing permanently in India and would attempt to arrange for a third party



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or mediator to contact him, so that both parents could decide on future child arrangements. In view of such statement, the petitioner withdrew the application. When the petitioner attempted to reach out the 4th respondent and children, their whereabouts were deliberately concealed by the 4th respondent. Thereafter, he lodged a complaint before the 2nd respondent on 12.08.2025 and the same was registered in CSR No.1161 of 2025 by the Police with an advice to file a civil case. Stating that the custody of children in the hands of R4 is illegal, he seeks for production of his children before this Court.

4. Learned Senior Counsel for the petitioner submitted that the present Habeas Corpus Petition is maintainable and relied upon a judgment of the Apex Court in the case of Tejaswini Gaud and others vs. Shekhar Jagdish Prasad Tewari and others, reported in (2019) 7 SCC 42, wherein in Paragraph Nos.14 & 19, it has been held as under:

“14. Writ of habeas corpus is a prerogative process for securing the liberty of the subject by affording an effective means of immediate release from an illegal or improper detention. The writ also extends its influence to restore the custody of a minor to his guardian when wrongfully deprived of it. The detention of a minor by a person who is not entitled



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to his legal custody is treated as equivalent to illegal detention for the purpose of granting writ, directing custody of the minor child. For restoration of the custody of a minor from a person who according to the personal law, is not his legal or natural guardian, in appropriate cases, the writ court has jurisdiction.

19. Habeas corpus proceedings is not to justify or examine the legality of the custody. Habeas corpus proceedings is a medium through which the custody of the child is addressed to the discretion of the court. Habeas corpus is a prerogative writ which is an extraordinary remedy and the writ is issued where in the circumstances of the particular case, ordinary remedy provided by the law is either not available or is ineffective; otherwise a writ will not be issued. In child custody matters, the power of the High Court in granting the writ is qualified only in cases where the detention of a minor by a person who is not entitled to his legal custody. In view of the pronouncement on the issue in question by the Supreme Court and the High Courts, in our view, in child custody matters, the writ of habeas corpus is maintainable where it is proved that the detention of a minor child by a parent or others was illegal and without any authority of law.”

To strengthen his argument, learned Senior Counsel also relied upon yet another judgment of the Supreme Court in the case *Nithya Anand*

Raghavan vs. State (NCT of Delhi) and another, reported in *(2017) 8 SCC*

454, wherein it was categorically stated as follows:

“45. In a petition for issuance of a writ of habeas corpus in relation to the custody of a minor child, this Court in *Sayed Saleemuddin v. Dr. Rukhsana & Ors.* 15 , has held that the principal duty of the Court is to ascertain whether the custody of child is unlawful or illegal and whether the welfare of the



child requires that his present custody should be changed and the child be handed over to the care and custody of any other person. While doing so, the paramount consideration must be about the welfare of the child. In the case of Mrs. Elizabeth (*supra*), it is held that in such cases the matter must be decided not by reference to the legal rights of the parties but on the sole and predominant criterion of what would best serve the interests and welfare of the minor. The role of the High Court in examining the cases of custody of a minor is on the touchstone of principle of *parens patriae* jurisdiction, as the minor is within the jurisdiction of the Court (see *Paul Mohinder Gahun Vs. State of NCT of Delhi* 15 (2001) 5 SCC 247 38 & Ors.16 relied upon by the appellant). It is not necessary to multiply the authorities on this proposition.”

5. The judgment relied upon by the learned Senior Counsel for the petitioner is not applicable to the present case on hand, as the Apex Court in *Tejaswini's case (supra)* held that the detention of a minor by a person, who is not entitled to his legal custody is treated as equivalent to illegal detention. In the given case, children are in the custody of 4th respondent, who is the mother. Moreover, the petitioner has filed a Guardian OP Petition in CSR No.7803 of 2025 on the file of the Principal Family Court, Coimbatore.

6. In such view of the matter, we are of the view that when the children are in the custody of mother, such custody cannot be construed as an illegal detention and the petitioner, having filed OP petition before the



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Principal Family Court, Coimbatore, has approached this Court by way of filing the present Habeas Corpus Petition, which is not permissible. Hence, we direct the Principal Family Court Judge, Coimbatore, to expedite the matter, decide the issue and pass orders thereon within a period of three months from the date of receipt of a copy of this order.

7. With the above direction, this Habeas Corpus Petition is disposed of.

(N.S.K,J.) (M.J.R,J.)
27.10.2025

Index: Yes / No
Internet: Yes / No
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2. The Inspector of Police,
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3. Deputy High Commissioner,
The British Deputy High Commission Chennai,
20, Anderson Road, Thousand Lights West,
Gandhi Nagar, Chennai – 600006.
4. The Public Prosecutor,
High Court, Madras.

N.SATHISH KUMAR, J.



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