



H.C.P.(MD)No.90 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 24.01.2025

CORAM

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
and
THE HONOURABLE MS.JUSTICE R.POORNIMA**

H.C.P.(MD)No.90 of 2025

Swetha

... Petitioner

Vs.

1.The State of Tamil Nadu,
The Superintendent of Police,
O/o.The District Superintendent of Police,
Thoothukudi District,
Thoothukudi.

2.The Inspector of Police,
Palayakayal Police Station,
Thoothukudi District.

3.Selvam

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India
praying for the issue of a Writ of Habeas Corpus, directing the second
respondent herein to produce petitioner's child daughter namely
Kalayarasi (2years), D/o.Selvam, Who is in the custody of the third



H.C.P.(MD)No.90 of 2025

respondent and hand over to the petitioner based on petitioner's representation dated on 30.10.2024 within stipulated time.

For Petitioner : Mr.R.Amarnath

For Respondents : Mr.E.Antony Sahaya Phabahar,
Addl. Public Prosecutor for R1 & R2.

ORDER

(Order of the court was delivered by G.R.Swaminathan, J.)

Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondents 1 and 2.

2.The petitioner got married to the third respondent and a girl child / Kalaiyarasi was born through the wedlock. The petitioner developed difference of opinion with the third respondent and left the matrimonial home to join her boyfriend by name Satheesh Kumar. This habeas corpus petition has been filed to take custody of the child from the third respondent.



H.C.P.(MD)No.90 of 2025

3. When the petitioner left the matrimonial home on her own accord, the petitioner has to necessarily file GWOP before the jurisdictional Family Court or Civil Court. The third respondent is the natural guardian for the child and therefore, it cannot be construed as a case of illegal detention. This habeas corpus petition is not maintainable and it is dismissed.

**(G.R.S. J.) & (R.P. J.)
24.01.2025**

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
ias

To:-

1. The Superintendent of Police,
O/o. The District Superintendent of Police,
Thoothukudi District,
Thoothukudi.
2. The Inspector of Police,
Palayakayal Police Station,
Thoothukudi District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



H.C.P.(MD)No.90 of 2025

G.R.SWAMINATHAN, J.
and
R.POORNIMA, J.

ias

H.C.P.(MD)No.90 of 2025

24.01.2025