



WEB COPY **BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED : 28.02.2025

CORAM:

**THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN
AND
THE HON'BLE MS JUSTICE R.POORNIMA**

H.C.P(MD)No.150 of 2025

Chinnaponnu

... Petitioner/Mother of the detenu-Child

.Vs.

1.The Superintendent of Police,
Madurai District,
Madurai.

2.The Inspector of Police,
Y.Othakadai Police Station,
Madurai- 625 107.

3.Selvakumar

4.Saranya

... Respondents

PRAYER: Habeas Corpus Petition filed under Article 226 of the Constitution of India, praying this Court to direct the respondents 1 and 2 to secure the detenu and produce the body or person of the detenu, an infant namely Master Subikshan, son of Selvakumar, aged about 3 years, before this Court , illegally



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detained by the respondents 3 and 4 and hand-over the custody of the male child /detenu to the Petitioner forthwith.

For Petitioner : Mrs. Kalaiyarasi Bharathi

For Respondents : Mr.S.Ravi
1 and 2 Addl.Public Prosecutor

ORDER

DR.G.JAYACHANDRAN., J
AND
R.POORNIMA.,J

The Habeas Corpus Petition is filed seeking a direction to the respondents 1 and 2 to secure the detenu and produce the body or person of the detenu, an infant namely, Master Subikshan, son of Selvakumar, aged about 3 years, before this Court, illegally detained by the respondents 3 and 4 and hand-over the custody of the male child /detenu to the Petitioner forthwith.

2.Heard the learned counsel appearing on either side and perused the materials placed before this Court.

3.The allegation in the Habeas Corpus Petition is that the third respondent,



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who is the husband of the Petitioner deserted her and had forcibly taken away the child on 12.01.2025 at 4.30 p.m. causing stab injury on the right eye. Further allegation in the affidavit is that the third respondent is having intimacy with the fourth respondent and the child is with the fourth respondent, who is unrelated to the child. The Petitioner and the third respondent are Advocates by profession. The records as well as the admission of the third respondent indicates that the Petitioner and the third respondent are not living together and got separated and the child was under the care and custody of the mother, who is the Petitioner herein. On 17.2.2025, this Court directed the third respondent to bring the child to the Court on 24.2.2025 so that the apprehension of the Petitioner that the child is not taken care and is under illegal custody, has to be ascertained. However, the third respondent though he was specifically directed to bring the child on 24.02.2025, failed to do so and hence, this Court was constrained to pass the following order:--

“The third respondent, in-spite of the direction given by this Court to produce the child today, is not present.

2.The second respondent Police is directed to produce the



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child on 25.02.2025 at 10.30 a.m before this Court. If the third respondent refuse to hand over the child, the second respondent Police is at liberty to register a complaint and take necessary action, as per law.”

4. Thereafter on 25.2.2025, the third respondent brought the child and he stated that the child been admitted in an institute of speech therapy and therefore, he needs time to work out an amicable settlement regarding the custody of the child. The third respondent was granted three days time and the matter was adjourned today. Unfortunately, when the matter is called today in morning, the third respondent was not present and hence, the matter was passed over and at 1.15 p.m., the third respondent appeared through video-conference and showed some certificate, dated 28.02.2025 to indicate that the child is under treatment for speech therapy.

5. The conduct of the third respondent as well as the fact that the child was snatched away from the Petitioner forcibly by the third respondent and not been taken care properly, forced this Court to direct the third respondent to hand over the child namely, Master Subikshan, son of Selvakumar, aged about 3 years



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forthwith to the Petitioner herein. If he needs the care and custody of the three years old child, he has to approach the appropriate forum. The mother, who is the natural guardian for the child below five years, has to be given custody of the child and the forcible removal of the custody of the child cannot be countenanced.

6. Accordingly, the Habeas Corpus Petition is allowed and the respondents 1 and 2/Police is directed to comply with this order and report compliance before this Court on **03.03.2025**.

[G.J.,J.] [R.P.,J.]
28.02.2025

NCS : Yes/No
Index : Yes / No
Internet : Yes / No
vsn

To

1. The Superintendent of Police,
Madurai District,
Madurai.
2. The Inspector of Police,
Y.Othakadai Police Station,
Madurai- 625 107.

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Copy to

The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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DR.G.JAYACHANDRAN, J.
and
R.POORNIMA, J.

vsn

ORDER MADE IN
H.C.P(MD)No.150 of 2025

28.02.2025