



H.C.P.(MD) No.610 of 2025

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.06.2025

CORAM:

**THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA
and
THE HONOURABLE MS.JUSTICE R. POORNIMA**

H.C.P.(MD) No.610 of 2025

S.Harishma

... Petitioner

Vs

1. The State of Tamilnadu,
Rep By,
The Superintendent of Police,
O/o.The Superintendent of Police,
Tirunelveli District.

2. The Superintendent of Police,
O/o.The Superintendent of Police,
Namakkal District.

3. The Inspector of Police,
O/o.All Women Police Station,
Vallioor,
Tirunelveli District.

4. The Inspector of Police,
O/o.Namakkal Police Station,
Namakkal, Namakkal District.



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5. Agastin

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of habeas corpus directing the respondents to produce the body or person of petitioner's son namely Athigan, S/o.Sutharajan, aged about 1.5 years before this Court and hand over the custody.

For Petitioner : Mr.Naresh Prabu A,

For Respondents : Mr.B.Nambiselvam
No.1 to 4 Additional Public Prosecutor

For R5 : Mr.M.N.Raja Panth

ORDER

[Order of the Court was made by A.D.JAGADISH CHANDIRA, J.]

This petition has been filed seeking to issue Habeas Corpus for production of the petitioner's son, namely Athigan S/o. Sutharajan.



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2.It is the case of the petitioner that she fell in love with the fifth respondent and they got married and out of the wedlock, they have one son, named, Athigan. After marriage, the fifth respondent used to work in a Hotel in Namakal and due to his drinking habits, there was a matrimonial dispute between them. It is the further case of the petitioner that on 26.05.2025, the fifth respondent/husband had come out in an inebriated condition and assaulted her and driven her out of the matrimonial home and forcibly took the 1.5 year old child away from her without consent. Thereafter, on 27.05.2025, the petitioner had visited the parents house of the fourth respondent in Vallioor, Tirunelveli District in search of her son and husband, where they were not available and thereby, she is not unable to find the whereabouts of the child. The petitioner had sent a representation to the respondents 1 to 4 via Registered Post by narrating all the above said facts. Since no action was taken by the respondents 1 to 4 to secure the child, the present Habeas Corpus Petition has been filed.

3.The learned Counsel for the petitioner would submit that the child is 1.5 year old and that the fifth respondent had driven the petitioner out of the matrimonial home and that he is holding the custody of the child.



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4. When the matter was listed on 05.06.2025, the fifth respondent appeared before this Court along with the child. He contended that the petitioner had voluntarily left the matrimonial home and that he being the natural guardian is entitled for the custody of child. Finding that the matter is arising out of the matrimonial dispute, we referred the matter for Mediation.

5. Today, a report has been received from the Mediation Centre attached to this Bench. As per the report, the fifth respondent is ready to live with the petitioner, whereas, the petitioner is not inclined to go and live with the fifth respondent, who is her husband.

6. The learned Counsel for the fifth respondent would submit that the petitioner and the fifth respondent got married 2.5 years ago and they were living at Namakal and the petitioner had not taken proper care of the child and the fifth respondent was taking care of the child and the child is very much attached to the fifth respondent. He would further submit that the fifth respondent has no objection to come and live with the petitioner and the child is not in illegal



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custody of the fifth respondent and it is the petitioner, who has walked out of the matrimonial home without any reason.

7.Finding that the child is not in illegal custody and the child is attached to the father/fifth respondent, this Habeas Corpus Petition stands closed. However, the parties are at liberty to approach the appropriate forum seeking for custody of the child.

[A.D.J.C., J.] [R.P., J.]
09.06.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
LR



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3. The Inspector of Police,
O/o.All Women Police Station,
Vallioor,
Tirunelveli District.
4. The Inspector of Police,
O/o.Namakkal Police Station,
Namakkal, Namakkal District.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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