



HCP(MD)No.707 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 23.06.2025

CORAM:

**THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA
and**

THE HONOURABLE MS.JUSTICE R.POORNIMA

HABEAS CORPUS PETITION(MD)No.707 of 2025

S. Kavitha

... Petitioner

vs.

1. State of Tamil Nadu,
The Superintendent of Poilce,
Theni District,
Theni.

2.The Inspector of Police,
All Women Police Station,
Theni District.

2. Unamai Selvam @ Selvam

3. Pitchiammal

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, to direct the respondents No.1 and 2 to produce the petitioner's daughter namely Ms.T.Saira, C/o. Thisaikaran aged 5 years of her body before this Court and hand over her custody to the petitioner.

For Petitioner

: Mr.M. Jerin Mathew

For Respondents 1 and

: Mr.B. Nambi Selvan
Additional Public Prosecutor

For respondents 3 and 4

: Mr.S. Vikram



HCP(MD)No.707 of 2025

ORDER

WEB COPY

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

This petition has been filed for issuing a direction to the respondents No.1 and 2 to produce the petitioner's daughter namely Ms.T.Saira, C/o. Thisaikaran, aged about 5 years or her body before this Court and handover her custody to the petitioner.

2. The case of the petitioner is that she was given in marriage to one Thisaikaran against her wish, by her parents. Out of the wedlock, one girl child viz., T. Saira was born on 11.12.2019 and now, the child is aged about 5 years. It is the further case of the petitioner that she did not want to live with her husband and she has been living with another person. While so, the petitioner's brother had given a complaint before the District Crime Branch, Theni and the petitioner was directed to appear before them. When she had appeared before the District Crime Branch, Theni, the respondents 3 and 4 who are the parents of the petitioner had taken the custody of the child and they have given an undertaking that they will handover the custody of the child at the time of reopening of school and thereafter, they had refused to return the child. Hence, the petitioner had given a complaint before the 2nd respondent Police.



HCP(MD)No.707 of 2025

Based on which, they have registered a complaint in CSR.No.224 of 2025 and

since the respondents have not taken any action to secure the child and handover the custody of child, the petitioner has come forward before this Court by way of this Habeas Corpus petition.

3. Mr.M. Jerin Mathew, the learned counsel appearing for the petitioner submitted that the petitioner is the mother and natural guardian of child. The respondents 3 and 4, who are the parents of the petitioner alleging that the petitioner was having illicit affair had taken the custody of the minor child of the petitioner on the assurance that they will return the child after reopening of the school, whereas they have refused to hand over the child. The petitioner has given a complaint however no action has been taken by the respondents. Hence, the present petition has been filed.

4. Mr. B. Nambi Selvan, the learned Additional Public Prosecutor appearing for the respondents 1 and 2 submits that based on the complaint given by the petitioner enquiry was conducted in CSR.No.224 of 2025 on the file of the 2nd respondent Police and the custody of the minor child is with the respondents 3 and 4, who are the parents of the petitioner and they are present before this Court along with the child.



HCP(MD)No.707 of 2025

WEB COPY

5. Mr.S. Vikram, the learned counsel appearing for the respondents 3 and 4 would submit that the respondents 3 and 4 are the parents of the petitioner. The petitioner was married to one Thisaikaran and due to the wedlock, one female child viz., T. Saira, aged about five years was born on 11.12.2019. While the earlier marriage was in subsistence, the petitioner had developed illicit intimacy with one Srikanth and living with him. The respondents 3 and 4 given a complaint before the District Crime Branch, Theni, based on which, enquiry was conducted. Since the child expressed certain apprehension, with regard to the safety and taking into consideration of the welfare of the child, the respondents 3 and 4 had taken the custody of the child. While so, on 10.04.2025, the petitioner was found missing along with child. The third respondent had given a complaint and the case in Crime No.123 of 2025 was registered before the Bodi Town Police Station for women and child missing. Further, the petitioner had also taken a sum of Rs.9,00,000/- from home and she had also taken Rs.2,50,000/- from the third respondent's son Ganesan and also taken 12 ½ sovereigns of jewels from Pandiammal, W/o. Ganesan. Subsequently, she was secured along with the said Srikanth and during the enquiry, the child had expressed some apprehension. Taking into consideration the welfare and safety of the minor child, she was handed over to the



HCP(MD)No.707 of 2025

respondents 3 and 4, who are the parents of the petitioner. The third respondent is a maternal grand father and that custody is not illegal. He further submitted that the 3rd respondent has also filed GWOP.No.281 of 2025 on the file of Family Court, Theni and now, the same is posted for appearance of the petitioner on 09.07.2025.

6. We enquired the child in the chambers. She expressed certain apprehension with regard to staying with mother and her friend Srikath and she also expressed willingness to stay along with her maternal grand parents viz., the respondents 3 and 4. We find that the custody is not illegal. However, it is made clear that the observation is made only for the purpose of disposing the Habeas Corpus Petition and it will not have any bearing GWOP.No.281 of 2025, pending on the file of the Family Court, Theni.

7. Accordingly, this Habeas Corpus Petition is disposed of .

[A.D.J.C., J.] [R.P., J.]
23.06.2025

Index : Yes / No
Neutral Citation : Yes / No
trp



HCP(MD)No.707 of 2025

WEB COPY

- To:
1. The Superintendent of Poilce,
Theni District,
Theni.
 - 2.The Inspector of Police,
All Women Police Station,
Theni District.
 - 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



HCP(MD)No.707 of 2025

A.D.JAGADISH CHANDIRA, J.
AND
R.POORNIMA, J.

trp

ORDER MADE IN
HCP(MD)No.707 of 2025

DATED : 23.06.2025